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August 19 1753

~~Inter~~ T H
INTERPRETER:
OR
BOOKE, CONTAINING
the Signification of Words.

*Wherein is set forth the true meaning of all,
or the most part of such words and Termes,
as are mentioned in the Law Writers, or
Statutes of this victorious and renowned
Kingdome, requiring any Exposition
or Interpretation.*

A Worke not onely profitable, but necessary for
such as desire thoroughly to be instructed in the
knowledge of our Lawes, Statutes, &
other Antiquities.

Collected by JOHN COWELL, Doctor, sometime
the Kings Majesties Professour of the Civill Law
in the Univerfitie of CAMBRIDGE.

In Legum obscuritate captiv.

L O N D O N,
Printed for *William Sheares.* 1637.

Original A

INTERPRETER

OR

BOOK CONTAINING

Dupl. 406.31

Religion is the basis of all human progress
of the world for in the heart of man
is the seed of all good and evil
and it is the duty of every man
to cultivate the good and suppress the evil

ADAMS

283.10

A book is not only a treasure but a guide
to the life of the soul
and it is the duty of every man
to cultivate the good and suppress the evil

Collected by JOHN COWLEY, Esq.
and published by the
London and Westminster

to the public

LONDON

Printed for W. Williams



To the most Reverend Father in GOD,
his especiall good Lord, the Lord Archbishop
of Canterbury, Primate and Metropolitan
of England, *and one of his MAJESTIES most*
Honourable Privie Councell.



After long deliberation, I hardly induced my selfe to crave your gracious protection toward this simple worke : valuing it at so low a price, as I thinke it hardly worth the respect of any grave man, much lesse the favourable aspect of so honourable a personage. Yet the remembrance of those your fatherly provocations, whereby, at my comming to your Grace from the Universtitie, you first put me upon these studies, at the last by a kind of necessitie inforced me to this attempt : because I could not see how well to avoide it, but by adventuring the hatefull note of unthankfulnesse. For I cannot without dissimulation, but confesse my selfe perswaded, that this poore Pamphlet may prove profitable to the young Students of both Lawes, to whose advancement that way, I have of late addicted mine endeavours : else were I more than madde to offer it to the world : and to offer

it without mention of him, that by occasioning of this good, more or lesse, deserveth the prime thanks, were to prove my selfe unworthy of so grave advice.

And therefore howsoever I account this too much boldnesse in respect of the subject: yet could I be exceedingly glad it might please your Grace to ascribe mine intention to the integrity of my dutie. For he that meaneth truly well, and cannot performe much, must needs rejoyce at the good acceptance of that little which he performeth.

All I crave for this at your Graces hands, is patience and pardon for this enterprise, with the continuance of those your many favours, that hitherto to my great comfort I have enjoyed. And so my long observation of your judicious disposition, having taught me, what small delight you take in affected complements and verball commendation, without more words, In all true humblenesse, I beseech the Almighty long to continue your Grace in health and prosperitie, to his glory, and the good of his Church.

Your Graces at all

Commandement;

Jo. COVELL.

To the Readers.



GENTLE Readers, I here offer my selfe to your censures, with no other desire, then by you to be admonished of my faults. For though I doe professe the amplifying of their workes, that have gone before me in this kinde, and have both gathered at home, and brought from abroad some ornaments for the better embellishing of our English Lawes: yet am I neither so vaine as to deny my imperfections, nor so passionate, as to be offended at your charitable reformation. Nay, my true end is the advancement of knowledge, and therefore have I published this poore worke, not cruelly to impart the good thereof to those young ones that want it: but also to draw from the learned the supply of my defects: and so by degrees, if not my selfe to finish this modell, yet at the least, by the heat of emulation to incense some skilfuller Architect thereunto. Yea, I shall thinke my paines sufficiently recompensed, if they may be found but worthy to stirre up one learned man to amend mine errors.

The Civilians of other Nations, have by their mutuall industries raised this kinde of worke in their profession, to an unexpected excellencie. I have seene many of them that have bestowed very profitable and commendable paines therein: and lastly, one Calvinus a Doctor of Heidelberge, like a laborious Bee, hath gathered from all the former, the best juyce of their flowres, and made up a hive full of delectable honie. And by this example would I gladly incite the learned in our Common Lawes and Antiquities of England, yet to lend their advice, to the gaining of some comfortable lights

and prospects toward the beautifying of this ancient Palace, that hitherto hath beene accounted (howsoever substantiall) yet but darke and melancholy.

Whosoever will charge these my travailes with many oversights, he shall need no solemne paines to prove them. For I will easily confesse them. And, upon my view taken of this Booke since the Impression, I dare assure them that shall observe most faults therein, that I by gleaning after him, will gather as many omitted by him, as he shall shew committed by me. But I learned long silence out of famous Tullie, That as no mans errors ought to be followed, because he saith some things well: so that which a man saith well, is not to be rejected, because he hath some errors. No man, no Booke is voide of imperfections. And therefore reprehend who will, in Gods name: that is with sweetnesse, and without reproach. So shall he reape heartie thanks at my hands: and by true imitation of the most judicious that ever wrote, more soundly helpe on this point of learning to perfection in a few moneths, then I by tossing and tumbling my Bookes at home, could possibly have done in many yeares. Experience hath taught me this in my Institutes lately set forth: by publishing whereof I have gained the judicious observations of divers learned Gentlemen upon them, which by keeping them private I could never have procured. By which meanes, I hope one day to commend them to you againe in a more exact purity, and so leave them to future times for such acceptance as it shall please God to give them.

I have in some towardnesse a Tract (De regulis Juris) wherein my intent is, by collating the cases of both Lawes, to shew, that they both be raysed of one Foundation, and differ more in language and termes than in substance, and therefore were they reduced to one method (as they easily might) to be attained (in a manner) with all one paines. But my time imparted to these studies, being but stolne from mine employments of greater necessitie, I cannot make the haste I desire, or perhaps that the discourse may deserve. Wherefore

fore untill my leisure may serve to performe that, I intreat you lovingly to accept this.

One thing I have done in this Booke, whereof, because it may seeme strange to some, I thinke to yeeld my reason : and that is the inserting not onely of words belonging to the art of the Law, but of any other also, that I thought obscure, of what sort soever ; as Fish, Cloath, Spices, Drugges, Furres, and such like. For in this I follow the example of our Civilians, that have thought it their part to expound any thing they could meet within their walke. And in deed a Lawyer professeth true Philosophy, and therefore should not be ignorant (if it were possible) of either beasts, fowles, or creeping things, nor of the trees from the Cedar in Lebanon, to the Hyssop that springeth out of the wall. And therefore, if I have either omitted any hard word within my circuit, or set it downe not expounded ; I give you good leave to impute the one to my negligence, the other to mine ignorance : and so commend these my paines to your best profit, and you unto God. November. 3. 1607.

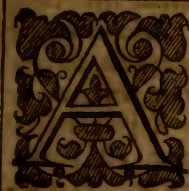
JO. COVELL.



The Signification of Words.

A B

A B



ABATE (*Intrudere*) seemeth to bee taken from the French *Abatre*, i. *decutere*, *destruere*, *prostruere*. It is in the Writers of the common law used both actively and passively, or rather neuterly: as to abate a Castle or a Fortlet, *Old nat. br. fol. 45.* which in *Westm. i. cap. 17.* is plainly interpreted to be as much as to beat downe. And to abate a Writ, is by some exception to defeat or overthrow it, *Britton, cap. 48.* And in this Active voice it hath two significations: one generall, another speciall: generall, as in the former examples: and againe in *Kitchin, fol. 173.* *Abater meason*, is to ruine or cast down a house: especially, as in the *Old nat. br. fol. 115.* A stranger abateth, that is, entereth upon a house or land void by the death of him that last possessed it, before the heire take his possession, & so keepeth him out. Wherefore as he that putteth out him in possession, is

said to disseise: so he that steppeth in between the former possessor and his heire, is said to abate. In the neuter signification it is used, *an. 34 Ed. 1. stat. 2.* of joynt tenants; viz. the writ of the demandant shall abate, that is, shall be disabled, frustrated or overthrowne. So in *St. vinton* ples of the Crowne, *fol. 148.* In this case a man may say, that the Appeale abateth by covin, that is, that the accusation is defeated by deceit. See *Intrusion*.

Abatement (*Intrusio*) cometh also of the French (*abatement*, i. *dejection*, *decussio*, *prostratio*) and is likewise used as the verbe (*abate*) both actively and passively: sometime signifying the act of the abatour; as the abatement of the heire into the land before hee hath agreed with the Lord, *Old nat. br. fol. 91.* Sometime the affection or passion of the thing abated, as abatement of the writ, *Kitchin, fol. 214.* And in this signification it is as much as *exceptio dilatoria* with the Civilians, *Brit. cap. 51.* or rather an effect of

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it.

it. For the exception alledged and made good, worketh the abatement. And this exception may be taken either to the insufficiencie of the matter, or to the incertaintie of the allegation by the misnaming of the Plantiffe, Defendant, or place to the variance betweene the Writ and the Specialtie, or Record, to the incertaintie of the Writ, Count, or Declaration, or to the death of the Plantiffe or Defendant: New Termes of the Law, verbo, Abatement of Writ. And he that will reade more of this, may looke upon the new Booke of Entries, verbo briefe, notations to be used.

Abateur (*Intruder*) is hee that abatheth, that is, thrusteth into a house or land, void by the death of the former possessor, and not yet entered or taken up by his Heire. *Old nat. br. fol. 115. Perkins fol. 76.* If there bee a disseisor, Abator, or intruder upon any land by the deceipt of the woman, &c. *de vi & vii de d. (128)*

Abbat (*Abba*) in French *Abbé*, is by skillfull Linguists said to come from the Syriack word (*Abba*) i. *pater*, and in our Common Law is used for him that in the Covent or fellowship of Canons hath the rule and preheminance. He is by *Justinian nov. vel constitut. 115.* *Q. de monachis* termed *Archimandrita*, of others *Genobiarcha*, vel *Archimonachus*,

Hoto, in verbis Feuda. Of these some here in England were Mitred, some not: *Stowes annals, p. 442.* And those that were Mitred, were exempted from the Jurisdiction of the Diocesan, having in themselves Episcopall authority within their precincts, and being also Lords of the parliament. of this kinde thus saith *Corasius*; *Aliqui Abbates habent jurisdictionem Episcopalem, ad quas cum Ecclesia pleno jure pertinet, in eorum Monasteriis Episcopus nihil exercet, cap. Ea que. Vbi Panor. extra de statu Monacho.* *Hec dicitur author in Paraphrasi de Sacerdotio, materia parte pri. cap. 9.* And these were called Abbots soveraigne, anno 9. R. 2. cap. 4. and Abbots generals, as *M. Ferne* noteth in his glory of generosities, p. 126. The other sort were subject to the Diocesan in all spirituall government, cap. *Monasteria 18. quest. 2. ca. Abba. & ca. visitandi, cum quatuor sequentibus ibidem ca. Omnis. 16. quest. 7. & ca. Cum venerabilis, extra de religiosis domibus.* And as Abbots, so were there Lord Priors also, who both had exempt jurisdiction, and were Lords of the parliament, as appeareth by *S. Edward Cooke de jure Ecclesiastico. fol. 28. a.*

Abeyance, seemeth to be derived from the French (*Abayer. i. allatnare*) to barke at as dogges do against a stranger, or Spaniels
at

at a Fesant put to the pearke. So children are said (*bayer à la mamme*) when seeing the dugge, they struggle and make meanes towards it. And they likewise (*bayer à l'argent*) *qui spe atque animo incumbunt pecuniæ*. This word in Littleton, cap. Discontinuance, is thus used. The right of Fee-simple lyeth in abeyance: that is (as himselfe interpreteth) all onely in the remembrance, intendment, and consideration of the law. Also in the same place, the Franke tenement of the Glebe of the Parsonage, is in no man during the time that the Parsonage is voyd, but is in abeyance. And againe: It is a principle in law, that of every land there is Fee-simple in some man, or the Fee-simple is in Abeyance. Considering these places, and comparing them with the signification of the French word, I am driven to thinke, that our auncient Lawyers would signifie hereby a kind of hope, or longing expectance: because that those things that bee in abeyance, though for the present they be in no man, yet they are in hope and expectation belonging to him that is next to enjoy them. For I find also in the French, that *un bayard*, is *avidus spectator*, a greedy beholder. I cannot in mine owne opinion better compare this, then to that which the Civilians call *Heredita-*

tem jacentem. For as Bracton saith (*lib. i. cap. 12. nu. 10.*) *Hereditus jacent nullius est in bonis ante aditionem. Sed fallit in hoc quia sustinet vicem persone defuncti, vel quia speratur futura hereditas ejus qui adibit*. So that (as the Civilians say) goods and lands do *jacere*, whilst they want a possessor, and yet not simply, because they had lately one, and may shortly have another: so the common Lawyers doe say, that things in like estate are in abeyance. Reade farther of this in the new terms of law, and in *Plowdens reports, casu Walsingham, fol. 554. a.*

Abet (*Abettare*) may without absurditie be said to proceed from the French (*bouter, i. ponere, apponere, impellere, propellere*). It signifieth in our common law as much as to encourage or set on. The substantive (*abetment, abettum*) is used for an encouraging or setting on, *Stawf. pl. cor. fol. 105.* And also (*abettonr*) for him that encourageth or setteth on, *Old nat. br. fol. 21.* But both verbe and nounce is alway used in the evil part.

Abisshering (according to *Rastall* in his Abridgement, *titulo Exposition of law words*) is to be quit of amerciaments before whomsoever of transgression. The author of the new tearmes calleth it otherwise (*Abisshering*)

and sayth it is to be quit of amer-
ciaments, before whomsoever,
of transgression proved. I am
of opinion that the word origi-
nall signifieth a forfeiture, or an
amerciament, and that it is much
transformed in the writing, by
misprision and ignorance of
Clearks: thinking it very pro-
bable, that it proceedeth from the
Germane verbe *Bescheizen*, which
is as much as *fisco addicere vel con-
fiscare*. It seemeth by the former
Anshours to be tearmed a freedom
or liberty; because hee that
hath this word in any Charter
or Grant, hath not onely the for-
feitures and amerciaments of all
others, within his fee for transgres-
sions, but also is himselfe free from
all such controlle of any within
that compasse.

Abjuration (*abjuratio*) signifieth
in our common law a sworne ba-
nishment, or an oath taken to for-
sake the realme for ever. For as
Stawm. pl. Cor. lib. 2, ca. 40, sayth
out of *Polydore Virgils* 11 booke
of Chronicles, the devotion to-
ward the Church, first in Saint
Edmond a Saxon King, and so
consequently in all the rest, until
anno 22. Henr. 8, was so earnest,
that if a man having committed
felony, could recover a Church
or Church-yard, before hee were
apprehended, hee might not bee
thence drawne to the usuall triall
of law, but confessing his fault to

the Justices at their comming, or
to the Coroner before them or him,
give his oath finally to forsake the
Realme. Of this you may reade
a touch, *anno 7 Henr. 7, cap. 7*. But
the forme and effect of this you
may have in the old Abridgement
of Statutes, *titulo* Abjuration,
num. 3. taken out of the ancient
Tractate, intituled *De officiis co-
ronatorum*, as also in *Cromptons*
Tractate of the office of the Co-
roner, *fol. 206 b*. and in the new
booke of Entries, *verbo* Abjuration:
and in *Andrew Horns* Mir-
rour of Justices, *lib. 1, cap. del*
office del Coroner. This part of
our Law was in some sort pra-
ctised by the Saxons, as appea-
reth by the Lawes of King *Ed-
ward*, set out by Master *Lambert*,
num. 10. but more directly by the
Normans, as is evident by the
grand Customary, *ca. 24*. where
you have these words in effect, He
that flieth to a Church or holy
place, may stay there for eight
dayes, and at the ninth day hee
must be demaunded; whether hee
will yeeld himselfe to secular ju-
stice, or hold him to the Church:
for if he will, he may yeeld him-
selfe to the lay Court, If he cleave
to the Church, hee shall forswear
the Countrey before the Knights
and other people of credit, which
may witnesse the act, if need re-
quire. The forme of the Oath is
likewise there set downe, with
the

the rest of the proceeding in this matter, very agreeable with ours. This mercy as well of the Saxons as Normans derived unto us, something resembleth that of the Roman Emperours toward such as fled to the Church, *lib. 1. Co. titulo 12*, or to the images of themselves, *codem, titulo 25*. And also that of *Moses* touching the Cities of refuge, *Exod. cap. 21, vers. 13. Num. ca. 15, vers. 6, 11, 12. Deut. 19, vers. 2. Josh. 20, vers. 2*. But as it was in our auncestours dayes larger by great oddes, in this Realme, so had it lesse reason, as it may appeare to all that will compare them. Of all circumstances belonging to this abjuration, you may further reade the new Tearmes of law, *Stawnsford ubi supra*, and such others. But this grew at the last upon good reason, to be but a perpetuall confining of the offender to some sanctuary; wherein, upon abjuration of his liberty and free habitations, hee would choose to spend his life; as appeareth, *anno 22 Hen. 8, ca. 14*. And this benefit also by other statutes is at the last wholly taken away. So that abjuration at this day hath place but in few cases: And if it bee inflicted upon any, it is not a confining to a Sanctuary (for there bee no sanctuaries remaining amongst us) but a sworne banishment of the Kings Dominions.

This the Civilians call *exilium*, or *deportationem*, *li. 28 Digest. tit. 22, de interdictis, relegatis, & deportatis*.

Abridge (*abbreviare*) commeth of the French *abreger*, and in one generall language signifieth as much as to make shorter in words, holding still the whole substance. But in the common Law it seemeth (at the least for the most part) to bee more particularly used for making a declaration or count shorter, by subtracting or severing some of the substance therein comprised. As for example, a man is said to abridge his plaint in an Assise, or a woman her demaund in an action of Dower, that hath put into the plee or demaund, any land not in the tenure of the tenant or defendant: and finding that by his answer, raseth those parcels out of the plee, praying answer to the rest. So that heere Abridger is not *contrahere*, but rather *subtrahere*. Tearmes of the Law: *Brooke, titulo Abridgement: and anno 21 Hen. 8, ca. 3*. Of this the Civilians have no use, by reason of certaine cautelous clauses, they ordinarily have at the end of every position or article of their libel or declaration to this effect: *& ponit conjunctim, divisim et de quolibet, et de tali et tanta quantitate vel summa qualis & quanta per confessionem partit ad-*
versu

versa, vel per probationes legitimas in fine litis apponebit. And againe, in the conclusion of all : *Non asstringens, se ad singula probanda, sed petens, ut quatenus probaverit in premissis, aut eorum aliqua, eatenus obtineat,* by vertue of which clauses the Plaintiffe faileth not in the end by any over or under demand, neither is driven to begin his action againe, but obtaineth for so much as hee proveth to bee due, though not to the height of his demand.

Abridgement (abbreviamentum) see *Abridge*.

A C

Accedas *ad Curiam*, is a writ that lieth for him, who hath received false judgement in a Court Baron, being directed to the Sheriffe, as appeareth by *Dyer, f. 169. m. 20.* Like as the writ *De falso iudicio*, lieth for him that hath received false judgement in the county court: the form whereof you may see in *Fitz. nat. br. fol. 18. d.* and in the Register, *fol. 9. b.* where it is said, that this writ lyeth for justice delayed, as well as falsly given. It is a species of the writ called (*Recordare*) Register original, *fol. 5. b.* and *Fitz. ubi supra.*

Accedas ad Vicecomitem is a writ directed to the Coroner, commanding him to deliver a writ to the Sheriffe, that having a

poned) delivered unto him, doth suppress it. *Regist. orig. fol. 83.*

Accessory (Accessorius vel Accessorium) is used in our common law, otherwise then among the Civilians. For whereas with them it is generally taken for any thing depending upon another: here though it be so likewise, yet most commonly and notoriously it signifieth a man that is guilty of a felonious offence, not principally, but by participation: as by commandment, advice, or concealment. And a man may be accessory to the offence of another after two sorts: by the common law, or by statute: and by the common law two wayes also: that is, before or after the fact. Before the fact, as when one commandeth or adviseth another to commit a felony, and is not present at the execution thereof. For his presence maketh him also a principall: wherefore there cannot bee an accessorie before the fact in man-slaughter, because man-slaughter is foudaine and not prepered, *Cooke, lib. 4. fol. 44. a.* Accessory after the fact, is when one receiveth him, whom he knoweth to have committed felonie. Accessorie by statute is hee that abetteth, counselleth, or hideth any man committing or having committed an offence made felony by statute. For though the statute make no mention of abettours,

tours, &c. yet they are by interpretation included. Of all these consult with *Stawnsf. pl. cor. lib. 1. cap. 45, 46, 47, 48.* There is also an accessorie of an accessory, as hee that wittingly receiveth an accessorie to felonie, *lib. Assis. 26. pl. 51. Coron. Fitzb. 197. Stawnsf. pl. cor. lib. 1. cap. 48.* And the law of England is, that so long as the principall is not attainted, the accessorie may not be dealt with, *Stawnsf. ubi supra.* The reason whereof you may see, *Cooke lib. 4. fol. 43. b.* And this is also true by the civill Law. *Claudius de Battandier in pract. crim. regula. 101.* at the least untill the principall bee certainly knowne. Of this subject reade *M. Cromptons Justice fol. 37. b. 38, 39.*

Acceptance, is a receiving of a rent, whereby the receiver bindeth himselfe for ever to allow a former fact done by another, whether it be in it selfe good or not, New termes of law.

Accompt (*computus*) is in the Common law taken for a writ or action brought against a man, that by meanes of Office or businesse undertaken, is to render an account unto another: as a bailife toward his Master, a guardian in socage toward his ward, and such others, as you shall finde particularly named by *Fitz. in his nat. br. fol. 116.* where you may also

have the forme and further use of this Writ. See *ex parte talis.*

Accroche. See *Encroachment.* This word Accroche is used. *ar. no. 25. Ed. 3. Stat. 3. cap. 8.*

Achat, commeth of the French (*achet. i. emptio, nundinatio*) and is used for a contract or bargain. *Broke tit. Contract.*

Acquittal, signifieth in our common Law most ordinarily a deliverance and setting free from the suspicion or guiltinesse of an offence: and is twofold: acquittal in law, or acquittal in fact. Acquittal in law is, when two be appealed, or endicted offelonie, one as principall, the other as accessorie, the principall being discharged, the accessorie by consequent is also freed. And in this case as the accessorie is acquitted by law, so is the principall in fact, *Stawnsf. pl. cor. fol. 168.*

Acquittance (*acquittancia*) cometh from the French (*quitter* or *quitter. i. acceptò ferre, or quittance. i. acceptitatio, apocba*) and signifieth a release or discharge from a debt formerly due. But the verbe (*acquite*) the participle (*acquited*) and the nowne (*acquittal*) signifie also a discharge or cleering from an offence objected, as: acquitted by proclamation, *Smith de Rep. Anglo. pa. 76. Stawnsf. pl. cor. fol. 168. Broke tit. Acquittal.* See the new Termes of Law. *verbo, Acquittal* and *Acquittance.*

Acquie-

Acquietandis plegiis, is a Writing for a suretie against the creditour that refuseth to acquite him, after the debt is paid by the Debtour, *Register orig. fol. 158.* where it appeareth that this is a Justicies.

Acre (*acre*) is a certaine quantitie of land containing in length 40. perches, and foure in breadth, or to that quantitie, bee the length more or lesse. And if a man erect any new Cottage, hee must lay 4 acres of land to it after this measure, *anno 31. Eliz. ca. 7.* and with this measure agreeth Master *Crompton* in his Jurisdiction of Courts, *fol. 222.* though hee say also, that according to the divers customes of divers Countries the Perch differeth, being in some places and most ordinarily, but 16. foot *dimid.* But in the Countie of *Stafford* 24 foote, as was adjudged in the Case betweene Sir *Edm. Aston*, and Sir *John B.* in the Exchequer. In the statute made of sowing of Flax, *anno 24. H.8. cap. 4.* eight score Perches make an acre, which is 40. multiplied by 4. See also the ordinance of measuring of land, made *anno 34. Ed. 1. statut. 1.* which agreeth with this accompt. The word (*Acre*) seemeth to come from the Germane word (*acker*) which is all one with the Latine (*ager.*)

Action (*actio*) is defined by

Bracton lib. 3. cap. 1. as it is by *Justinian. lib. 4. Instit. titulo de actionibus, viz. Actio nihil aliud est quam jus persequendi in judicio quod alicui debetur.* Action is principally divided by *Justinian, in personalem & realem*: by *Bracton*, into personall, reall, and mixt: action personall is that, which belongeth to a man against another by reason of any contract, offence, or cause of like force to a contract or offence made or done by him or some other, for whose fact hee is by law to answer *Bract. lib. 3. ca. 3. nu. 2.* Action reall is defined to be that which is given to any man against another, that upon any cause possesseth or occupieth the thing required or sued for in his owne name, and none other mans: and in this onely respect, that hee possesseth or occupieth the thing, and none other. *Bract. ibid. nu. 3.* and his reason is this: *quia habet rem vel possidet, quam restituere potest vel dominum nominare.* This definition and reason hee farther exemplifieth in the words there following, which hee that will may read at large. Action mixt is that which lyeth as well against or for the thing which wee seeke, as against the person that hath it: and is called mixt, because it hath a mixt respect both to the thing & the person. *Bract. lib. 3. cap. 3. nu. 5.* For exam-

example, the division of an inheritance betweene co-heires or co-partners, called in the civill law (*actio familie exheredum* :) secondly, the division of any particular thing being common to more, called likewise (*actio de communi dividundo* :) this kind of action (saith *Bracton*) doth seeme to be mixt, because it lyeth as well against the thing, as the person: and indeed so doe other excellent Civilians, as *Guisius* and *Wesembecius* in their Paratitles. *π. finium regund.* And though *Justinian* in his first division omitteth the third member byet afterward in the same title, §. 20. he saith as these men doe, *viz.* that there be certaine actions (naming these and other of like nature) that seeme to have a mixture, &c: Of this you may also read *Britton* at large in his chapter 71. And this division of action springeth from the object or matter, whereabout it consisteth, *Wesemb. parat. π. de actio. & oblig.* The author of the new Termes of Law defineth a mixt action to be a suite given by the law to recover the thing demanded, and also the damages for wrong done: as in Assise of novel disseisin: the which writ, if the disseisour make a feoffment to another, the disseisour shall have remedie against the disseisour and the feoffor, or other land tenant, to recover not

onely the land, but the damages also. See the rest. These words occasion me to shew, that *actio* is by the civill law called mixt in two respects: *Nam quedam misce sunt, quod in se, & actionis in rem, & actionis personalis naturam habeant, & in iis, & actor & reus uterque sit, l. actionis verbo. §. fina π. de obliga. & actio.* Tales sunt *actio familie exheredum. communi dividundo. & finium regund.* *quedam vero misce sunt quod rem simul & personam persequantur, ut in actione vi bonorum rapt. legis aquilia, & ea que datur contra eos qui legata vel fidei commissa sacrosanctis Ecclesiis relicta solvere distulerunt.* And of this latter sort is the example that the said Author bringeth of a mixt action.

Actio, is also by the Civilians divided, of the efficient cause, in *civilem & pretoriam*. Whereof the one riseth out of the common civill law, the other from some edict of the Pretour. Who being chiefe Justicer, had authoritie for his yeare, to supply the defects of the generall law by his especiall edicts. And a division not unlike this may be made in the common law of England, the growing from the ancient customarie law, the other from some statute. *Brooke. tit. Action sur le statut.* *in assise de novel disseisin.* *Action* of the small cause, is divided into *civill, p. nall, & mixt.*

Cooke vol. 6. fol. 61. a. Action civile is that, which tenderth onely to the recovery of that which by reason of any contract or other like cause, is due unto us: as if a man by action seeke to recover a summe of money formerly lent, &c. Action penall is, that aimeth at some penalty or punishment in the partie sued, be it corporall or pecuniarie. As in the action *legis Aquilia* in the civile law: whereby in our common law the next friends of a man feloniously slaine or wounded, shall pursue the law against the murderer, or him that wounded him, to condigne punishment. *Bract. li. 3. ca. 4.* Action mixt is that, which seeketh both the thing whereof we are deprived, and a penalty also for the unjust destrying of the same: as in an action of tithe upon the statute. *anna 2. & 3. Ed. 6. ca. 13.*

Action is also, according to the forme of petition, divided into such as are conceived to recover either the simple value of the thing chalenged, or the double, the triple, or quadruple. *Bract. li. 3. ca. 3. m. 6.* So doth *Decius tautum* lie against embracers. *Fitzh. nat. br. fo. 171.* and against jurors that take money for their verdict of one part, or the other, or both. And to be short, any other action upon a statute that punisheth any offence by restitu-

tion, or fine proportionable to the transgression.

Action is prejudiciall (otherwise called preparatorie) or else principall: prejudiciall is that which groweth from some question, or doubt in the principall: as if a man sue his younger brother for land descended from his father, and it be objected unto him that he is a bastard. *Bract. li. 3. ca. 4. m. 6.* For this point of bastardie must be tryed before the cause can farther proceed, and therefore is termed *prejudicialis, quia prius iudicanda.*

Action is either avuncellrell, or personall. *Statute of pleas. 5. 9.* Avuncellrell seemeth to be that, which we have by some right descending from our Aunceler upon us: and that personall, which hath the beginning in and from our selves.

Action upon the case (*actio super casu*) is a generall action given for redresse of wrongs done without force against any man, and by law not especially provided for. For where you have any occasion of suit, that neither hath a fit name, nor certaine forme already prescribed: there the Clerkes of the Chauncery in auncient time conceived a fit forme of action for the fact in question, which the Civilians call *actionem in factum*, and our common Lawyers action upon the case

case. In *factum* actiones dicuntur
ideo, quia quod nomine non possunt
exprimere negotium, id rei gestæ e-
narratione declarant citra formulam
ac solemnitatem ullam: Cuiusmodi &
Gothofredus ad Rubricam de præ-
scriptis verbis. And whereas in the
civill law there are two sorts
(*actio in factum*) one termed
actio in factum ex præscriptis verbis,
the other *actio in factum prætoria*.
Wesemb. parat. de præscrip. verb. the
former growing upon words
passed in contract, the other
more generally upon any fact
touching either contract or of-
fence formerly not provided a-
gainst, this action upon the case
seemeth in use to be more like to
the Pretours action in *factum*,
then to the other: because in the
peruall of the new booke of
entries, and Brookes his abridge-
ment hereupon, I perceivethat
an action upon the case lieth as
well against offences, as breach
of contract. Of this see more in
the word *Trespas*.

Action upon the statute (*actio
super statuto*) is an action brought
against a man upon breach of a
statute: to be resembled in mine
opinion to any action given in
the law Imperiall, either upon
edictum prætoris, *plebiscitum* or *se-
natusconsultum*. For as the Pre-
tour, so the common people in
comitijs tributis, and the Senators
or nobility in *curia vel senatu*, had

power to make lawes, whereup-
on the Pretour or other Judges
permitted action. And even so
our high Court of Parliament
maketh statutes against such of-
fences, as are either newly grown,
or more and more increased: and
our Judges entertain their plees,
that commence actions against
the breakers of them.

Action is perpetuall or tem-
porall (*perpetua vel temporalis*)
and that is called perpetuall, the
force whereof is by no time de-
termined. Of which sort were all
civill actions among the auncient
Romanes, viz. such as grew
from lawes, decrees of the Se-
nate, or constitutions of the Em-
perors: whereas actions granted
by the Pretor, died within the
yeare, *perpet. & tempor. actio in
Institut*. So wee have in England
perpetuall and temporarie ac-
tions: and I thinke all may be cal-
led perpetuall, that are not ex-
pressly limited. As divers Statutes
give actions, so they be pursued
within the time by them prescri-
bed, namely, the Statute *anno 1.
Ed. 6. cap. 1.* giveth action for 3.
yeares after the offences therein
shall be committed, and no lon-
gor: and the Statute *anno 7. H. 8.
cap. 3.* doth the like for foure
yeares, and that *anno 31. Eliz.
cap. 5.* for one yeare and no more.
But as by the civill Law no
actions were at the last so perpe-
tuall,

tuall, but that by time they might be prescribed against : as *actiones in rem decem aut viginti terminantur annis, personales vero triginta. §. 1. de perpet. & temp. actio in Institutio. & l. 3. Co. de prescript. 30. annorum* : so in our common law, though actions may bee called perpetuall in comparison of those that be expressly limited by statute : yet is there a meanes to prescribe against reall actions within five yeares, by a fine levied, or a recoverie acknowledged, as you may see farther in the word, Fine, and Recoverie. And for this also looke Limitation of assise.

Action is farther divided, in *actionem bonæ fidei & stricti juris*. Which division hath good use in our common law likewise, though the tearmes I find not in any of their writers. But of this, and such like divisions, because they have as yet no apparent acceptance amongst our Lawyers, but onely a hidden use, I referre the reader to the Civilians, and namely to *Wesemb.* in his Paratitles. *π. De obligatio. & actio.*

Addition (*additio*) is both the English and French word made of the Latine, and signifieth in our common Law a title given to a man over and above his Christian and surname, shewing his estate, degree, occupation, trade, age, place of dwelling, &c. For the use wherof in originall writs

of actions personall, appeales, and indictments, it is provided by Statute *an. 1. H. 5. cap. 5.* upon the penaltie therein expressed. Tearmes of the law. Broke farther addeth, that it is likewise requisite in townes, and gates of townes, parishes in great townes and cities, where there may bee any doubt, by reason of more townes, gates, or parishes of the same name, *titulo Addition.* See also *M. Cromptons* Justice of peace, fol. 95, 96.

Adeling was a word of honour among the *Angles*, properly appertaining to the Kings children, whereupon King *Edward* being himselfe without issue, and intending to make *Eadgare* (to whom hee was great Uncle by the mothers side) his heire to this Kingdome, called him *Adeling*. *Roger Hovedine, parte poster. suorum Annal. fol. 347. a.*

Adjournment (*adjournamentum*) is almost all one with the French (*adjonarement. idenunciatio vel diei dictio*) and signifieth in our common law an assignement of a day, or a putting off untill another day, *Adjournment in tyre, (anno 25. Ed. 3. Statute of pourveyers, cap. 18.)* is an appointment of a day, when the Justices in tyre meane to sit againe. *Adjourn. annu 2. Edm. 3. cap. 11.* hath the like signification. And the whole title in *Broke* his abridgement

ment proveth the same. The bastard Latine word (*adjournamentum*) is used also among the Burgundians, as *M. Skene* notheth in his booke *De verba signi. verba. Adjuratus*, out of *Cassianus de consuet. Burg.*

Ad inquirendum, is a writ judiciall, commanding inquirie to be made of any thing touching a cause depending in the Kings court, for the better execution of justice, as of bastardie, of bondmen, and such like: whereof see great diversitie in the Table of the Register judiciall, *verbo, Ad inquirendum.*

Admeasurement (*admensuratio*) is a writ, which lyeth for the bringing of those to a mediocritie, that usurpe more then their part. And it lyeth in two cases: one is termed admeasurement of dower (*admensuratio dotis*) where the widow of the deceased, holdeth from the heire or his guardian more in the name of her dower, then of right belongeth unto her. *Register orig. fol. 171. a. Fitzb. nat. br. fol. 148.* The other is admeasurement of pasture (*admensuratio pastura*) which lieth betweene those, that have common of pasture appendant to their free-hold, or common by vicenage, in case any one of them, or more, doe surcharge the common with more cattell then they ough,

Register orig. fol. 156. b. Fitzb. nat. br. fol. 125.

Administer (*administrator*) in our common law is properly taken for him, that hath the goods of a man dying intestate, committed to his charge by the ordinary, and is accountable for the same, whensoever it shall please the ordinarie to call him thereunto. I finde not this word so used in all the civill or canon law, but more generally for those, that have the government of any thing, as the Decrees. *can. 23. quest. 5. c. 26. Administratores plane secularium dignitatum, &c. and extra. com. ca. 11. Grangias autem, & alia loca Cisterciensium ordinis, & aliorum Regalium, in quibus Gubernatores, seu custodes vel administratores ponuntur, &c.* Howsoever the signification of this word grew to be restrained amongst us, it greatly beoteth not. But there was a statute made *anno 31. Ed. 3. ca. 11.* whereby power was given to the ordinarie to appoint these administrators, and to authorize them as fully as executors, to gather up, and to dispose the goods of the deceased: alway provided, that they should be accountable for the same, as executors. And before that, *viz. Westm. 2. anno 13. Ed. 1. ca. 19.* it was ordeined, that the goods of those that died intestate, should be committed to

the ordinarie his disposition, and that the ordinarie should be bound to answer his debts, so far forth as the goods would extend, as executors. And I perswade my selfe that the committing of this burden unto Bishops, and to those that derive ecclesiasticall authoritie from them, grew first from the constitution of *Leo* the Emperour. *Co. de Episco. & cleri. Luit. li. i. c. 28.* Where it is said, that if a man dying, bequeath any thing to the redeeming of captives, &c. and appoint one to execute his will in that point, the partie so appointed shall see it performed: and if hee appoint none to doe it, then the Bishop of the Citie shall have power to demand the legacie, and without all delay performe the will of the deceased.

Admirall (*Admirallus*) cometh of the French (*amerall*) and significeth, both in France and with us, an high officer or magistrate that hath the government of the Kings navie, and the hearing and deterwining of all causes, as well civill as criminall belonging to the sea. *Cromptons divers jurisd. fo. 88.* and the statutes *anno 13. R. 2. c. 5. & anno 15. c. i. in sedm. ca. 3. & an. 2. H. 4. c. 11. & anno 2. H. 5. c. 6. & an. 28. H. 8. c. 15.* with such like. This officer is in all Kingdomes of Europe that border upon the sea: and his autho-

ritie in the Kingdome of Naples is called, *magna Curia Admiraria que habet jurisdictionem in eos qui vivunt ex arc. maris. Vincent. de French. desis. 14. m. 1.* This Magistrate among the Romanes was called *praefectus classis*, as appeareth by *Tully in Verrem. 7.* but his authoritie was not continuall, as the Admirals is in these dayes, but onely in time of warre. Neither doe I finde any such officer belonging to the Emperours in our Code. And *M. Gwin* in the preface to his reading, is of opinion that this office in England was not created untill the dayes of *Edward* the third: His reason is probable. *Britton* that wrote in *Edw.* the firsts time, and in the beginning of his booke taking upon him to name all the courts of Justice, maketh no mention of this Court or Magistrate. And againe *Richard* the second finding the Admirall to extend his jurisdiction over farre, ordeined by statute made the 10. yeare of his reigne, that the limits of the Admirals jurisdiction should be restrained to the power hee had in his grandfather *Edward* the thirds dayes, whereby the said *Master Gwin* conjectureth that hee did nought elsẽ but reduce him to his originall. But contrarily to this it appeareth by auncient records, the copies whereof I have seene, that not onely in the dayes of

Ed. the first, but also of King John, all causes of Merchants and Mariners, and things happening within the flodde marke, were ever tried before the Lord Admirall.

Ad iura Regis, is a writ for the Kings Clarke against him that seeketh to eject him to the prejudice of the Kings title in the right of his Crowne. Of this you may see divers formes upon divers cases. *Register orig. fol. 61. a.*

Admittendo clerico, is a writte graunted to him that hath recovered his right of presentation against the Bishop in the common bank: the forme whereof read in *Fitzb. nat. br. fol. 38.* and the *Register orig. fol. 33. a.*

Admittendo in forem, is a writ for the afforiation of certaine persons to Justices of assises formerly appointed, *Register orig. fol. 206. a.*

Ad quod damnum, is a writ that lyeth to the escheater to inquire what hurt it will be to the King, or other person, to granta Faire or Market, or a mortmaine for any lands intended to be given in fee simple to any house of religion, or other body politicke. For in that case, the land so given is said to fall into a dead hand, that is, such an estate and condition, that the chiefe Lords doe lesse all hope of heriots, service of court, and escheates upon any traite-

rous or felonious offence committed by the tenant. For a bodie politicke dieth not, neither can performe personall service, or commit treason or felonie, as a singular person may. And therefore it is reasonable, that before any such grant be made, it should be knowne, what prejudice it is like to worke to the graunter. Of this reade more in *Fitzb. nat. br. fol. 221.* and looke *Ad mortmaine.*

Ad terminum qui prateriit, is a writ of entrie, that lyeth in case where a man having leased lands or tenements for terme of life or yeares, and after the terme expired, is held from them by the tenant, or other stranger that occupieth the same, and desorceth the leassour. Which writ belongeth to the leassour and his heire also, *Fitzb. nat. br. fol. 201.*

Adventu (*adventus*) is a certaine space of time comprising a moneth or thereabout, next before the feast of Christs nativitie. Wherein it seemeth that our ancestors reposed a kind of reverence for the neerestesse of that solenne feast: so that all contentions in law were then remitted for a season. Whereupon there was a statute ordained. *Westm. 1. cap. 48. anno 3. Ed. 1.* that notwithstanding the said usuall sollemnitie and time of rest, it might be lawfull in respect of justice

justice and charitie, which ought at all times to be regarded) to take assises of novell disseisin, mort d'auuncster, and darrein presentment, in the time of Advent, Septuagesima, and Lent. This is also one of the times, from the beginning whereof unto the end of the Octaves of the Epiphany, the solemnizing of marriage is forbidden, by reason of a certaine spirituall joy that the Church, and so consequently every member thereof, for that time, doth or ought to conceive in the remembrance of her Spouse Christ Jesus, and so abandon all affections of the flesh. See Rogation week, and Septuagesima.

Advocatione decimarum, is a writ that lyeth for the claime of the fourth part or upward, of the tythes that belong to any Church, Register orig. fol. 29. b.

Advow, aliàs *avowe* (*advocare*) commeth of the French (*avouër*, aliàs *avouer*, and signifieth as much as to justifie or maintaine an act formerly done. For example, one taketh a distresse for rent or other thing, and he that is destreined, sueth a Replevin. Now he that tooke the distresse, or to whose use the distresse was taken by another, justifying or maintaining the act, is said to avowe. Tearmes of the Law. Heereof commeth *advowant*, Old. nat. br. fol. 43. and *advowrie*, eodem folio.

Bracton useth the Latine word in the same signification, as *advocatio d. disseisine* li. 4. cap. 26. And I find in *Cassianus de consuet. Burg.* pag. 1210. (*advobare*) in the same signification, and pag. 1213. the Substantive (*desavohamentum*) for a disavowing or refusall to avowe.

Advowzen (*advocatio*) signifieth in our common law a right to present to a benefice, as much as *jus patronatus*) in the canon law. The reason why it is so tearmed, proceedeth from this, because they that originally obtained the right of presenting to any Church, were maintainers and upholders, or great benefactors to that Church, either by building or increasing it: and are thereupon termed sometime *patroni*, sometime *Advocati*, cap. 4. & cap. 23. de jure patronatus in Decretal. And *advowzen* being a bastardy French word is used for the right of presenting, as appeareth by the Statute of *Westm.* the second anno 13. Ed. 1. ca. 5.

Advowzen is of two sorts: *advowzen in gross*, that is, sole or principall; not adhering or belonging to any maner as parcell of the right thereof: *advowzen dependant*, which dependeth upon a manor as appertinent unto it, tearmed of *Kitchin* an incident, that may be separated from the subject. Of this *M. John Skene* de

de verbo sig. hath these words :
*dicitur advocatio Ecclesie, vel quia
 patronus alicujus Ecclesie ratione
 sui juris advocat se ad eandem Ec-
 clesiam, & asserit se in eadem ha-
 bere jus patronatus, eamque esse sui
 quasi clientis loco, vel potius cum
 aliquo (nempe patrono) advocat
 alium jure suo ad Ecclesiam vacan-
 tem, cumq; loco alterius (veluti defun-
 cti) presentat & quasi exhibet. See
 Advowè next following :*

*Advowè, alias avowè (advoca-
 tus) is used for him that hath
 right to present to a benefice, an.
 25. Ed. 3. stat. 5. ca. unico. There
 have you also (Advowè paramount)
 which is as much as the highest
 patron, and is spoken of the King.
 Advocatus est ad quem pertinet jus
 avocationis alicujus ecclesie, ut ad
 ecclesiam, nomine proprio non alieno,
 possit presentare. Flet. 1.5. ca. 14. §. 1.
 Fitz. in his nat. br. fo. 39. useth it in
 the same signification. See Advow-
 sen, and Avowè.*

*Etate probanda, is a Writ that
 the Kings Tenent holding in
 chiefe by chivalrie, and being
 ward by reason of his nonage,
 obtaineth to the escherour of the
 Countie where he was borne,
 or some time where the land ly-
 eth, to enquire, whether he be of
 full age to have delivery of his
 lands into his owne hand. Register
 orig. fo. 294. & 295. Fitzb. nat. br.
 fo. 253. who also fo. 257. saith that
 this writ is sometime directed to*

the Sheriffe to empanell a Jury, for
 this is inquiry against a day cer-
 taine, before Commissioners au-
 thorized under the broad Seale to
 deale in such a cause.

*Aerie of Goshawkes (aerie ac-
 cipitrum) cometh from the
 French (aerie) signifying so much
 as (par) in Latine, or (a paire) in
 English. For the French man say-
 ing that one is (un homme de bon
 aerie) signifieth that he cometh
 of a good paire, that is, a good
 father and a good mother. It is in
 our Language the proper word in
 Hawkes, for that which wee gene-
 rally call a nest in other birds. So
 is it used anno 9. H. 3. c. 13. in the
 charter of the forest, and in divers
 other places.*

*Afferours (afferatores, aliàs
 affidati) may probably bee
 thought to proceed from the
 French (affier. i. confirmare, affir-
 mare.) It signifieth in our common
 Law, those that be appointed in
 Court leets, &c. upon oath to
 mulct such as have committed
 faults arbitrably punishable, and
 have no expresse penaltie set
 downe by statute. The forme of
 their oath you may see in Kit-
 chin, fo. 46. The reason of this ap-
 pellation may seeme to bee, be-
 cause they that be appointed to
 this Office, doe affirme upon their
 oathes, what penaltie they thinke
 in conscience the offendour hath
 deserved. It may likewise proba-
 bly*

bly be thought, that this com-
meth from (*feere*) an old English
word, signifying a companion, as
(*gesera*) doth among the Sax-
ons by *M. Lamberds* testimonie,
verbo (*contubernalis*) in his expli-
cation of Saxon words. And so it
may be gathered that *M. Kit-
chin* taketh it. *ca. Amercements.*
fo. 78. in these words, (*Mas file a-*
mercement soit affree per pares)
where (*pares*) be put for affectors.
And there may be good reason
of this, because they are in this
businesse made companions and
equals. You shall find this word
used *anno 25. Ed. 3. st. 7. viz.* And
the same Justices before their ri-
sing in every sessions, shall cause
to be affected the amercements,
as pertaaineth, and also to the same
effect, *an. 26. H. 8. ca. 6. Kitchen fo.*
78. joyneth these 3 words toge-
ther as *synonyms*. (*Affidati, a mer-*
ciatores, affours. Affidre in the
canon law is used for *fidem dare.*
ca. fina. de cognatio. spiritua. in De-
cretal & ca. super eo de testibus.
Bracton hath *affidre mulierem* for
to be betrothed to a woman. *li.*
2. ca. 12. But I find in the custo-
marie of Normandy, *ca. 20.* this
word (*asseurer*) which the latine
intepretour expresseth by (*tax-*
are) that is, to set the price of a
thing, as (*estimare, indicare, &c.*)
which etymologie of all the o-
ther pleaseth mee best, leaving e-
very man to his own judgement.

Affirme (*affirmare*) commeth
either of the Latine, or French
(*affirmer*) it signifieth in our com-
mon law, as much as to ratifie or
approve a former law, or judge-
ment. So is the Substantive (*affir-*
mance) used *anno 8. H. 6. c. 12.* And
so is the verb it selfe by *M. West.*
parte 2. symbolai. titulo, Finer. sect.
152. And if the judgement be af-
firmed, &c. as also by *M. Cromp-*
ton in his divers *Jurisd. fo. 166.*

Afforest (*afforestare*) is to turne
ground into Forest. *charta de fore-*
sta. c. 1 & 30. an. 9. H. 3. What that
is, looke more at large in *Forest.*

Affraye (*affreia*) commeth of
the French (*effraier. i. horrificare,*
terre) It signifieth in our com-
mon law a skirmish, or fighting
betweene two or more. *M. Lam-*
berd in his *eirenarcha, lib. 2. ca. 3.*
saith, that it is often times con-
founded with an assault, but yet
hee is of opinion that they differ
in this, that where an assault is
but a wrong to the party, an af-
fray is a common wrong: and
therefore both enquirable and
punishable in a Leet. It might
be said likewise, that an assault is
but of one side, and an affray of
two or more. I thinke this word
(*affray*) to be two wayes used:
one, as I have already described
it: another, for a terror wrought
in the subjects by any unlawfull
fight of violence, or armor, &c.
tending toward violence. For so

is it used, *anno 2. Ed. 3. cap. 3.*

Age (etas) commeth from the French (*age*) and signifieth in our language that part of a mans life, which is from his birth unto his last day. But it is in the common Law particularly used for those especiall times, which enable men or women to do that, which before for want of age, and so consequently of judgement, they might not do. And these times in a man be two, in a woman six. The age of 21. yeeres is tearmed the full age, in a man the age of fourteene yeeres, the age of discretion, *Litleton lib. 2. ca. 4.* In a woman there are six severall ages observed, that severally enable her to do six severall things, *Broke Gard. 7.* First, at 7. yeare of age the Lord her father may distraine his tenents for ayde to marry her: for at those yeeres shee may consent to matrimonie, *Bracton lib. 2. cap. 36. nu. 3.* Secondly, at the age of nine yeeres shee is dowable: for then, or within halfe a yeere after, is she able *promereri dotem, & virum sustinere*, *Fleta lib. 5. cap. 22. Litleton li. prim. cap. 5.* which *Bracton loco citato* doth notwithstanding limit at 12 yeeres. Thirdly, at twelve yeeres shee is able finally to ratifie and confirme her former consent given to matrimonie. Fourthly, at 14. yeeres shee is enabled to receive her land

into her owne hands, and shall be out of ward, if she be of this age at the death of her Ancestor. Fifthly, at sixteen yeeres she shall bee out of ward, though at the death of her Ancestor shee was within the age of fourteene yeeres. The reason is, because then shee may take a husband able to performe Knights service. Sixtly, at 21. yeeres shee is able to alienate her lands and tenements, *Instit. jure com. ca. 24.* Touching this matter, take further these notes perspicuously gathered. At the age of 14. yeeres a striplin is enabled to chuse his owne guardian, and to claime his land holden in socage, *Dyer fol. 162.* which *Bracton* limiteth at fifteene yeeres, *li. 2. cap. 37. num. 2.* with whom *Glanvile* also agreeth *lib. 7. ca. 9.* And at the age of foureteene yeeres, a man may consent to marriage, as a woman at 12. *Bracton ubi supra.* At the age of fifteene yeeres, a man ought to be sworne to keepe the Kings peace, *anno 34. Ed. 1. Stat. 3.* The age of 21. yeeres compelleth a man to be Knight, that hath twentie pounds land *per annum* in fee, or for terme of life, *anno 1. Ed. 2. stat. 1.* and also enableth him to contract and to deale by himselfe, in all lawfull causes appertaining unto his estate. Which untill that time he cannot, with the security of those that deale with him.

This the Lombards settle at 18. yeeres, as appeareth by *Hotmans* disputationes in *libros feudorum*, l. 2. c. 53. ver. decimo octavo anno. which power the Romans permitted not *usque ad plenam maturitatem*, and that they limited at 25. yeeres *lib. 1. in fine π. de major. 25. ann. l. fin. Co. de Legit. tit. in principio, titulo de curat. in Institut.* The age of twelve yeeres bindeth to appearance before the Sheriffe and Coroner for enquire after Robberies, *ann. 52. H. 3. cap. 24.* The age of 14. yeeres enableth to enter an order of religion without consent of parents, &c. *anno. 4. H. 4. cap. 17.*

Age prier (aetatem precari) or (*aetatis precatio*) is a petition made in court by one in his minoritie, having an action brought against him, for lands comming to him by descent, that the action may rest untill hee come to his full age: which the Court in most cases ought to yeeld unto. This is otherwise in the Civill law, which inforceth children in their minoritie to answer by their tutors or curatours, *π. de minor. 25. an.*

Aggenbine. See *Haghenbine.*

Agist (agistare) seemeth to come of the French *giste. i. jacet*) having (*giser*) in the Infinitive moode, whence commeth the nowne (*gisme*) a lying in child-bed: or rather of *gister. i. stabulari*) a word proper to a Deare,

cum sub mensem Martium à locis abditis in quibus delituit emigrans in loco deletto stabulari incipit, unde comoda & propinqua sit pabulatio. Budem in posteriori libro philologie. Where also he saith, that (*giste*) est idem quod *lustrum vel cubile.* Or it may bee probably deduced from the Saxon word (*Gast. i. hospes.*) It signifieth in our common law, to take in and feede the cattell of strangers in the Kings Forest, and to gather the money due for the same to the kings use, *Charta de forestis, an. 9. H. 3. cap. 9.* The Officers that do this, are called (*agistors*) in English, Guest-takers, *eadem c. 8. Cromptonis Jurisdic. fo. 146* These are made by the Kings Letters patents under the great Seale of England: of whom the King hath foure in number within every Forest, where he hath any pawnage, called *agistors*, or Gist-takers. And their office consisteth in these foure points: (*in agistando, recipiendo, imbreviando, certificando*) *Manwood parte prima.* Of Forest lawes, p. 336. & 337. whom you may reade more at large. Their function is tearmed Agistment, as agistment upon the sea banks, *anno 6. H. 6. cap. 5.*

Agreement (agreementum. i. aggregatio mentium) is the assent or concord of more to one thing: & this by the Author of the new tearmes of law, is either executed

ted or executory : which you may read more at large in him exemplified by cases.

Ayde (*auxilium*) is all one in signification with the French (*ayde*) and differeth in nothing, but the only pronunciation, if we take it as it is used in our vulgar language. But in the common law, it is applied to divers particular significations, as sometime to a subsidie, *anno* 14. *Ed.* 3. *stat.* 2. *cap.* 1. sometime to a prestation due from tenants to their Lords, as toward the relief due to the Lord Paramount, *Glanville* li. 9. *ca.* 8. or for the making of his sonne Knight, or the marrying of his daughter, *idem*, *eodem*. This the King, or other Lord by the ancient Law of England, might lay upon their Tenents, for the Knighting of his eldest sonne at the age of 15. yeeres, or the marriage of his daughter at the age of seven yeeres, *Registr. orig.* fol. 87. *a.* and that at what rate themselves listed. But the statute *West.* 1. *anno.* 3. *Ed.* 1. ordained a restraint for so large a demand, made by common persons being Lords, in this case, and tyed them to a certaine rate. And the Statute made *anno* 25. *Ed.* 3. *stat.* 5. *ca.* 11. provideth, that the rate set downe by the former Statute, should hold in the King, as well as in other Lords. Of this I find mention in the Statute, *an.*

27. *H.8. cap.* 10. This imposition seemeth to have descended to us from Normandie : for in the grand customary, *cap.* 35. you have a Tractat intituled (*des aides chevelz. i. de auxiliis capitalibus*) whereof the first is (*a faire l'ainé filz. de son seigneur chevalier. i. ad filium primogenitum militem faciendum*) the second, (*son ainee fille marier i. ad filiam primogenitam maritandam.*) And the third, (*a rechapiter le corps de son seigneur de prison quand il est prius per la guerre au Duc. i. ad corpus domini sui de prisona redimendum cum captus fuerit pro bello Ducis Normandiae.* Also I find in *Cassan. de consuet. Burg.* *Quod dominus accipit a subditis pro dotanda filia*, *pa.* 122. which seemeth to bee all one with this our imposition : and also in *Vincentius de Franchois de seisc.* 131. where hee calleth it *adjutorium pro maritanda Filia*. Whence it appeareth, that this custome is within the kingdome of Naples also. Touching this likewise, you may reade these words in *Menoebius lib.* 2. *de arbitrat. Jud. quest. centuria* 2. *cap.* 181. *Hubent sapientie feudorum possessores & Domini multa in eorum ditionibus privilegia, multa sq; cum locorum incolis conventiones : inter quas, illa una solet nominari, ut possit Dominus collectam illis indicare, pro solutione dotium suarum filiaru, cum matrimonio collocantur.*

Hoc aliquando Roma observatum. à Caligula fuisse, in illius vita scribit Suetonius, cap. 42. Hodie hic usus in subalpina regione est frequens, ut scribit Jacobinus, de Sancto Georgio, in tractu de homagiis, col. 8. Etiam pro filia qua religionem ingreditur: & non modo pro una filia, sed pluribus filiabus, non tamen pro secundis nuptiis exigitur. In which place the said author maketh mention of divers other Civilians and Feudists, that record this custome to be in other places. Of this Ayd our Flta writeth thus: sicut etiam quedam consuetudines qua servitia non dicuntur, nec concomitantia servitiorum, sicut rationabilis auxilia ad filium primogenitum militem faciendum, vel ad filiam primogenitam maritandam: que quidem auxilia sunt de gratia & non de jure, pro necessitate et indigentia domini capitalis. Et non sunt prædialia, sed personalia, secundum quod perpendi poterit in brevi ad hoc prævisò, &c.

This word (*Ayd*) is also particularly used in matter of pleading, for a petition made in court for the calling in of helpe from another, that hath an interest in the cause in question, and is likely both to give strength to the party that prayeth in ayd of him, and also to avoid a prejudice growing toward his own right, except it be prevented. For example, when a tenent for terme of life, by courtesie, tenent in

taille after possibility of issue extinct, for tearme of yeares, at will, by Elegit, or tenent by Statute merchant beeing impleaded touching his estate, may *petere auxilium*, that is, pray in ayd of him in the reversion, that is, desire or intreat the Court, that he may be called in by writ, to alledge what hee thinketh good for the maintenance both of his right and his own. Terms of the Law. *Fitzherbert* mentioneth both *prier in ayde*, and *prier ayde de patron*, &c. *auxilium petere à patrono*, Nat. Brev. fo. 50, d. And the new booke of Entries, *Verbo Ayde de parcener, auxilium de parcionario*, fo. 411, *Columna 4*. This the later practitioners in the Civile Law call *authoris laudationem vel nominationem*. *Emerius in practition. titulo 48*. This *ayde prier* is also used sometime in the Kings behoofe, that there bee no proceeding against him untill the kings Countell bee called, and heard to say what they thinke good, for the avoyding of the kings prejudice or losse, touching the cause in hand. For example, if the kings tenent holding in chiefe, be demanded a rent of a common person, hee may pray in ayd of the king. Also a city or Borough that hath a fee ferme of the king, any thing being demanded against them which belongeth thereunto, may pray in ayd of the

the King, &c. Terms of the law. Of this thing you may reade the statute (*de bigamis. 2. 4. Ed. 1. ca. 1. 2. & 3. & an. 14. Ed. 3. stat. 1. ca. 14.*) The civill law in suits begun between two, alloweth a third to come in (*pro interesse*) and he that commeth in for his interest, commeth either *assistendo*, or *opponendo*, &c. The former is like to this (*ayde prier*) the other to that which our common Lawyers call *Receite*. Looke *Receite*.

Aile (*avo*) commeth of the French (*aient. i. avu*) & signifieth a writ that lieth where the grandfather or great grandfather, called of our common lawyers (*besaile*) but in true French (*bisaient*) was seised in his demaines as of fee, of any land or tenement in fee simple, the day that hee dyed, and a stranger abateth or entreth the same day, and dispossesteth the heire. *Fitz. nat. br. fo. 222.*

Alderman (*aldermannus*) is borrowed from the Saxon (*Ealderman*) signifying as much as Senator in Latine. *Lamb.* in his explication of Saxon words, *verbo senator*. See *Roger Hoveden par. poster. suorum, annal. fo. 346. b.*

Aler sans jour, is *verbatim*, to goe without day: the meaning whereof is, to be finally dismissed the Court: because there is no day of farther appearance assigned, *Kitchin. fol. 149.*

Ale-taster, is an officer ap-

pointed in every Court leet, and sworne to looke to the assise, and the goodnesse of bread and ale, or beere, within the precincts of that Lordship: *Kitchin, fo. 46.* where you may see the form of his oath.

Alias, v. Capias alias.

Alien (*alienare*) commeth of the French *aliener*, and signifieth as much as to transerre the propriety of any thing unto another man. To *alien in mortmain*, is to make over lands or tenements to a Religious company, or other body politique: *Stamf. prerog. fo. 48.* Look *Mortmain*. To *alien in fee*, is to sel the fee simple of any land or tenement, or of any incorporeall right. *West. 2. ca. 25, ann. 13 Ed. 1.*

Alien, alias, alien (*alienigena*) commeth of the Latine *alienus*, and signifieth one born in a strange Countrey. It is ordinarily taken for the contrary to *Denizen*, or a naturall subject, that is, one borne in a strange country, and never here enfranchised. *Brooke, Denizen, 4. &c.* And in this case, a man borne out of the land, so it be within the limits of the Kings obedience beyond the seas, or of English parents out of the kings obedience, so the parents at the time of the birth bee of the kings obedience, is no alien in account, but a subject to the king. *Statute 2. a. 25 Edm. 3. c.*

unico. commonly called the Statute, *De natis ultra mare*. Also if one borne out of the Kings allegiance, come and dwell in England, his children (if hee beget any here) be not aliens, but denizens. Termes of the law. See *Denizen*.

Allaye (*Allais*) is used for the temper and mixture of silver and gold, *an. 9. H. 5. Stat. 2. c. 4. & Stat. 1. ejusdem anni, cap. 11.* The reason of which allay is, with a baser metall to augment the waight of the silver or gold so much, as may countervaille the Princes charge in the coining. *Antonius Faber. de nummariore debitorum solutionibus, cap. 1.*

Allocatione facienda, is a writ directed to the Lord Treasurer, and Barons of the Exchequer, upon a complaint of some accountant, commanding them to allow the accountant such summes, as hee hath by vertue of his office lawfully and reasonably expended, *Regist. orig. fol. 206. b.*

Alluminor, seemeth to be made of the French (*allumer. i. accendere, incendere, inflammare*) it is used for one that by his trade coloureth or painteth upon paper or parchment. And the reason is, because he giveth grace, light, and ornament by his colours, to the letters or other figures coloured. You shall find the word, *an. 1. R. 3. ca. 9.*

Almaine rivets, bee a certaine light kind of armor for the body of a man, with sleeves of maile, or plates of iron for the defence of his armes. The former of which words, seemeth to shew the countrey where it was first invented: the other, whether it may come from the French verbe (*revestir, i. superinducere*) to put on upon another garment, I leave to farther consideration.

Almner (*elemosinarius*) is an officer of the Kings house, whose function is, *fragmenta diligenter colligere, & ea distribuere singulis diebus egenis: agrotos & leprosos, in carceratos, pauperesq; viduas, & alios egenos vagosq; in patria commorantes, charitative visitare: item equos relictos, robas, pecuniam, & alia ad elemosynam largita, recipere & fideliter distribuere. Debet etiam regem super elemosyna largitione crebris summonitionibus stimulare, & precipue diebus Sanctorum, & rogare ne robas suas qua magni sunt pretii, histrionibus, blanditoribus, adulatoribus, accusatoribus & el menestralis, sed ad elemosyna sua incrementum jubeat largiri, Fleta lib. 2. cap. 22.*

Almoine (*elemosina.*) See *Frank almoine*.

Almond (*amygdalum*) is well knowne to every mans sight: it is the kernell of a nut or stone, which the tree in Latine called (*amygdalus*) doth beare with-

within a huske in manner of a walnut, of whose nature, and diversities, you may reade *Gerards Herball, lib. 3. cap. 87.* This is noted among Merchandize that are to be garbled, *anno 1. Jaco. cap. 19.*

Almegeor, alias, almegeor (ulniger vel ulnator) cometh from the French (*alme*) an elle, or elwand, and signifieth an Officer of the Kings, who by himselfe or his Deputie, in places convenient, looketh to the Assise of woollen cloth made through the land, and to seales for that purpose ordained unto them, *anno 25. Ed. 3. Stat. 4. cap. 1. anno 3. R. 2. cap. 2.* who is accomptable to the King for every cloth so sealed in a fee or custome thereunto belonging, *anno 17. R. 2. cap. 2.* Reade of this more, *anno 27. Ed. 3. cap. 4. anno 17. R. 2. cap. 2. & 5. anno 1. H. 4. cap. 13. anno 7. ejusdem cap. 10. anno 11. ejusd. cap. 6. anno 13. ejusd. cap. 4. anno 11. H. 6. cap. 9. anno 31. ejusdem cap. 5. anno 4. Ed. 4. ca. 1. anno 8. ejusdem cap. 1. & an. 1. R. 3. cap. 8.*

Ambedexter, is that jurour or embraceour, that taketh of both parties for the giving of his verdict. Hee forfeiteth ten times so much as he taketh, *anno 38. Edw. 3. cap. 12. Cromptons Justice of Peace, fol. 156. b.*

Amendment (emendatio) cometh of the French (*ameudemant*) and signifieth in our com-

mon Law, a correction of an error committed in a Proesse, and espied before judgement. Termes of the Law. *Broke titulo Amendement per totum.* But if the fault be found after judgement given: then is the party that will redresse it, driven to his writ of error. Termes of the law, *Broke titulo Error.*

Amerciament (amerciamentum) signifieth the pecuniarie punishment of an offender against the King or other Lord in his court, that is found to be (*in misericordia*) i. to have offended, and to stand at the mercie of the King or Lord. There seemeth to bee a difference betweene amerciaments and fines, *Kitchin, fol. 214.* And I have heard common Lawyers say, that fines, as they are taken for punishments, be punishments certaine, which grow expressly from some statute, and that amerciaments be such, as be arbitrarily opposed by affectors. This is in some sort confirmed by *Kitchin fol. 78.* in these words: (*P. americiament est affire per pares.*) *M. Manwood* in his first part of *Forest lawes, pag. 166.* seemeth to make another difference, as if he would inferre an americiament to be a more easie, or more mercifull penaltie, and a fine more sharpe and grievous. Take his words: If the pledges for such a trespassse (saith he) doe appeare

by common summons, but not the defendant himselfe: then the pledges shall be imprisoned, for that default of the defendant: but otherwise it is, if the defendant himselfe doe appeare, and be ready in Court before the Lord Justice in eyre, to receive his judgement, and to pay his fine. But if such pledges doe make default, in that case the pledges shall be amerced, but not fined, &c. The Author of the new termes of law, saith, that amerciament is most properly a penaltie assessed, by the peeres or equals of the partie amerced for an offence done, for the which he putteth himselfe upon the mercie of the Lord. Who also maketh mention of an amerciament royall, and defineth it to be a pecuniarie punishment laid upon a Sheriffe, Coroner, or such like Officer of the Kings, amerced by Justices for his offence. See *Misericordia*.

Amoveas manum, Looke ouster le maine.

An, tour, & waste, (*Annus, dies, & vastum*.) Looke yeare, day, and waste.

Anecaling of tile, anno 17. Ed. 4. ca. 4.

Annates, (*Annates*.) seemeth to be all one, with first fruits, anno 25. H. 8. ca. 20. Looke, First fruits. The reason is, because the rate of first fruits payed of spirituall livings, is after one yeares profit:

Of which *Polydore Virgil*, de inventione rerum, lib. 8. cap. 2. saith thus: *Nullum inventum majores Romani Pontifici curantibus opes, quam annatarum (quas vocant) usus, qui omnino multo antiquior est, quam recentiores quidam scriptores suspiciantur. Et antiquius more suo appellant primos fructus annis anni sacerdotii vacantibus, aut dimidiam eorum partem. Sanè hoc vestigial jam pridem, cum Romanus Pontifex non habuerit tot possessiones quot nunc habet, Et cum oportuerit pro dignitate, pro officio, multos magnosq; facere sumptus, paulatim impositum fuit sacerdotiis vacantibus qua ille conferret: de qua quidem re ut gravi, saepe reclamantem fuisse testatur Henricus Hostiensis, qui cum Alexandro 4. Pontifice vixit, sic ut Franciscum Zabarellus tradat posthac in concilio Viennensi, quod Clemens quintus induxit (qui factus est Pontifex anno salutis humanae, 135.) agitatum fuisse, ut, eo deposito, annatum onere vicesima pars vestigialium sacerdotium penderetur quotannis Romano Pontifici, Quid quidem frustra, Quare Pontifex annatas in sua nassa retinuit, utine inde exire possent: lege cetera.*

Annemied, comueth of the French (*annuarium*, i. se abjicere, utque prosternere.) It signifieth with our Lawyers, as much as frustrated or brought to nothing, *Littleton*, lib. 3, cap. mortantie.

Annua pensio, is a wiler, whereby

whereby the King having due unto him an annuall pension from an Abbot or Prior for any of his Chaplaines, whom he shall think good to name unto him, being as yet unprovided of sufficient living, doth demand the same of the said Abbot or Prior for one, whose name is comprised in the same writ, untill, &c. and also willeth him, for his Chaplaines better assurance, to give him his Letters patents for the same. *Register orig. fol. 265. & 307. & Fitz. nat. br. fol. 231.* where you may see the names of all the Abbeyes and Priories bound unto this, in respect of their foundation or creation: as also the forme of the Letters patents usually granted upon this writ.

Annuitie (annuus redditus) signifieth a yearely rent to be paid for terme of life or yeares, or in fee, and is also used, for the writ that lieth against a man for the recoverie of such a rent, either out of his land, or out of his coffers, or to be received of his person, at a day certaine every yeare, not satisfying it according to the grant. *Register origin. fol. 158. Fitzh. nat. br. fol. 152.* The author of the new termes of Law defineth (*annuitie*) to be a certaine summe of money granted to another in fee simple, fee taile, for tearme of life, or of yeares, to receive of the granter, or his

heires, so that no Free-hold be charged therewith, whereof a man shall never have assise or other action, but a writ of Annuitie. *Saintgerman* in his booke intituled (*The Doctor and Student*) *dialogo primo, cap. 3.* sheweth divers differences betweene a rent and an annuities, whereof the first is, that every rent, be it rent service, rent charge, or rent seck, is going out of land: but an annuity goeth not out of any land, but chargeth onely the person: that is to say, the granter, or his heires that have assets by descent, or the house, if it be granted by a house of religion, to perceive of their coffers. The second difference is, that for the recoverie of an annuity, no action lieth, but onely the writ of annuities against the granter, his heires, or successors: but of a rent, the same actions lie as doe of land, as the case requireth. The third difference is, that an annuities is never taken for assets, because it is no Free-hold in law, neither shall be put in execution upon a statute Merchant, statute Staple, or Elegit, as a rent may. *Dyer fol. 345. num. 2.* speaketh also to this effect.

Annise seede (semen anisi) is a medicinall seed not unknowne, so called of the hearbe *anisum*, whereof it is the fruit. Of this hee that listeth may reade Ge-

rards herball. li. 2. c. 397. It is noted among the garbleable drugs and spices, anno 1. Jaco. ca. 19.

Noissance, alias *Noissance*, alias *Nusance* (*nocumentum*) commeth of the French (*nuisance*. i. *incommodum*, *noxa*) and hath a double signification, being used as well for any hurt done either to a publike place, as (high way, bridge, or common river) or to a private, by laying any thing, that may breed infection, by incroaching, or such like means: as also, for the writ that is brought upon this transgression: whereof see more in *Nusance*. The word (*noissance*) I find, anno 22. H. 8. cap. 5.

Apostata capiendo, is a writ that lyeth against one, that having entered and professed some order of religion, breaketh out again, and wandereth the country, contrarily to the rules of his order. For the Abbot or Prior of the house, certifying this into the Chancery, under their common seale, and praying this writ directed to the Sheriffe for the apprehension of such offendour, and for the delivery of him againe to his Abbot or Prior, or their lawfull Attourney, were wont to obtaine the same. The forme whereof, with other circumstances, you shall find in the *Register orig. fo. 71. & 267.* and *Fitzb. natur. br. fol. 233. C.*

Apparelement, commeth of the French (*pareilement*. i. *similitudo*, *perisdo*, *isidem*) and signifieth a resemblance, as apparelement of war, anno 2. R. 2. stat. 1. c. 6.

Appeale (*appellam*) commeth of the French (*appeller*. i. *accusare*, *conferere*, *nominare*, *evocare*, *clamare aliquem flagitare*.) It signifieth in our common law, as much as (*accusatio*) with the civilians. For as in the civill law, cognisance of criminall causes, is taken either upon inquisition, denunciation, or accusation: so in ours, upon indictment or appeale, indictment comprehending both inquisition, and denunciation. And accusation or appeale, is a lawfull declaration of another mans crime (which by *Bracton* must be felonie at the least in the common law) before a competent Judge, by one that setteth his name to the declaration, and undertaketh to prove it, upon the penaltie that may ensue of the contrary. To declare the whole course of an appeale, were too much for this treatise. Wherefore for that, I must referre you to *Bracton l. 3. tract. 2. c. 18. sunt sequent.* *Britton. ca. 22, 23, 24, 25.* and to *S. Thomas Smith, l. 3. de repub. Anglo. c. 3.* and lastly to *Stamf. pl. cor. l. 2. ca. 6, 7. &c. usq; 17.* An appeale is commenced two wayes: either by writ, or by bill, *Stamf. ubi supra. fo. 46.* And it may be gathered

red by him, *fol. 148.* that an appeale by writ is, when a writ is purchased out of the Chaucerrie by one to another, to this end, that he appeale a third of some felonie committed by him, finding pledges that he shall doe it, and deliver this writ to the Sheriffe to be resorded. Appeale by bill is, when a man of himselfe giveth up his accusation in writing to the Vicount or Coroner, offering to undergote the burthen of appealing another therein named. This point of our law, among others, is drawne from the Normans, as appeareth plainly by the grand Customarie, *cap. 68.* where there is set downe a solemne discourse, both of the effects of this Appeale, *viz.* the order of the combat, and of the trial by enquest: of which, by the common law of England, it is in the choice of the defendant, whether to take. See the new book of entries, *verbo Appel.* and the book of Assises, *fo. 78. Appel.*

Appeale of *mabum* (*appellum mabemii*) is an accusing of one that hath maimed another. But that being no felonie, the appeale thereof is but in a sort, an action of trespassse: because there is nothing recovered but daimnages. *Bracton* calleth this (*appellum de plagis & mabemio*) and writeth of it a whole Chapter, *l. 3. tract. 2. ca. 24.* See *S. Ed. Cook. 4. vol. fo. 43. a.*

Appeale of wrong imprisonment (*appellum de pace & imprisonment*) is used by *Bracton*, for an action of wrong imprisonment, whereof he writeth a whole tract. *lib. 3. tract. 2. ca. 25.*

Appeale (*appellatio*) used in our common Law divers times, as it is taken in the civill law: which is a removing of a cause from an inferiour Judge to a superiour, as appeale to Rome, *anno 14. H. 8. ca. 12. & an. 1. Eliz. ca. 1.* But it is more commonly used, for the private accusation of a murderer, by a party who had interest in the party murdered, or of any felon by one of his complices in the fact. See *Appover.*

Appendant (*appendens*) is any thing belonging to another, as *accessorium principali*, with the Civilians, or *adjectum subiecto*, with the Logicians. An Hospitall may be appendant to a Manor. *Fitz. nat. br. f. 142.* Common of fishing appendant to a free hold. *Westm. 2. ca. 25. anno 13. Ed. 1.*

Appertinances (*pertinentie*) cometh of the French (*appartenir. i. pertinere*). It signifieth in our common law, things both corporall, belonging to another thing, as to the more principall: as hamlets to a chiefe Mannor, common of pasture, turbarie, piscarie, and such like; and incorporeall, as liberties and services of tenants. *Brit. ca. 39.* where I note by the

way; that hee accounteth common of pasture, turbaries, and piscary, to be things corporall, lookes Common in this sense to possess

Apportionment (*Apportionamentum*) is a dividing of a rent into parts; according as the land, whence the whole rent issuetly is divided among two or more. See the new termes of law.

Apprentice (*Apprenticius*) cometh of the French (*aprenti. i. tyro & rudis discipulus*), or of the Verb (*apprendre. i. addiscere, discere*) and signifieth with us, one that is bound by covenant in word or writing, to serve another man of trade, for certaine yeares, upon condition, that the Artificer or man of Trade, shall in the meane time endeavour to instruct him in his Art or Myserie. *S. Thomas Smith*, in his booke de rep. Ang. l. 3. ca. 8. saith, that they are a kind of bond men, differing onely, in that they be servants by covenant, and for a time. Of these you may reade divers statutes made by the wisdome of our Realme, which I thinke superfluous here to mention.

Appropriation (*appropriatio*) proceedeth from the French (*appropri. i. aptare, accommodare*) and properly signifieth, in the law of England, a severing of a benefice ecclesiasticall (which originally and in nature is, *juris divini & in patrimonio nullius*) to the proper

and perpetuall use of some Religious house or Deane; &c. and chapter, Bishopricks or Colledge. And the reason of the name I take to be this: because that whereas persons ordinarily be not accounted (*domini*) but (*usufructuarii*) having no right of fee simple. *Lilston tit. Discontinuants*: these, by reason of their perpetuities, are accounted owners of the fee simple, and therefore are called *propriarii*. And before the time of *Richard the second*, it was lawfull (as it seemeth) simply, at the least by mans law, to appropriate the whole fruits of a benefice to an Abbey or Priory, they finding one to serve the cure. But that King made so evill a thing more tolerable by a law, whereby hee ordained, that in every license of appropriation made in Chauncerie, it should expressly be contained, that the Diocesan of the place should provide a convenient summe of money yearly to be paid out of the fruits, toward the sustenance of the poore in that Parish, and that the Vicar should be well and sufficiently endowed, *anno 15. Rich. 2. ca. 6.* Touching the first institution, and other things worth the learning about Appropriations; reade *Plowden in Grendons case, fo. 496. b. & seqq.* as also the new termes of law, *verba Appropriation.* To

an approbation, after the licence obtained of the King in Chancery, the consent of the Diocesan, Patron, and Incumbent are necessary, if the Church be full: but if the Church be void, the Diocesan and the Patron upon the Kings licence may conclude it. *Plowden ubi supra*. To dissolve an appropriation, it is enough to present a Clerke to the Bishop. For, that once done, the benefice returneth to the former nature. *Fitzh. Nat. bl. fol. 35. F.*

Approver (*approbator*) cometh of the French (*approver*, i. *approbare*, *comprobare*, *calculus alio adjicere*) It signifieth in our common law, one that confessing felony of himsele, appealeth or accuseth another, one or more, to be guilty of the same; & he is called so, because hee must proove that which hee hath alleadged in his appeale, *Stamf. pl. cor. fo. 142*. And that proove, is by battell, or by the Countrey, at his election that appealed. The forme of this accusation, you may in part gather by *M. Cromptons Justice of Peace*, fol. 250, & 251. that it is done before the Coroner, either assigned unto the felon by the Court, to take and record what he saith, or els called by the felon himsele, and required for the good of the Prince and commonwealth, to record that which he saith, &c. The oath of the appro-

ver, when he beginneth the combat, see also in *Crompton* in the very last page of his booke, as also the Proclamation by the Herald. Of the antiquity of this law, you may read something in *Horns mirror of Justice*, li. 1. in fine cap. del. *Officer del. Coroner*. Of this also see *Bracton* more at large, lib. 3. tract. 2. cap. 21. & 34. and *Stamf. pl. cor. lib. 2. cap. 52. cum seq.*

Approver of the King (*Approvatores Regis*) be such as have the letting of the Kings Demesnes in small Mannors to the Kings best advantage, anno 5 r. H. 3. *Stat. 5*. See *Approver* *book of the*

Approver (*approbare*) cometh of the French (*approver*, i. *approbare*, *comprobare*, *calculus alio adjicere*) it signifieth in the common law to augment, or (as it were) to examine to the uttermost. For example: to approve land, is to make the best benefite thereof by increasing the rent, &c. So is the Substantive (*Approvement*) used in *Cromptons Jurisd.* fol. 153. for the profits themselves. So is it likewise in the statute of *Merton ca. 4.* anno 2. H. 3. Land newly approved, *Old Nat. ex. fol. 79*. So the Sheriffes called themselves the Kings approvers, anno 1. Ed. 3. cap. 8. which is as much in mine opinion as the gatherers or exactors of the Kings profits. And anno 9. H. 6. cap. 10.

Bailiffes

Bailiffes of Lords in their franchises be called their approvers. But *anno 2. Ed. 3. esp. 12.* Approvers be certaine men especially sent into severall countiees of the Realme, to increase the Fermes of Hundreds and Wapentakes, which formerly were set at a certaine rate to the Sheriffes, who likewise dimised them to others, the countie Court excepted.

Approvement (appruamentum) see Approve. See the Register judiciall, fol. 8. br. & 9. a. See the new termes of Law, *verbo (Approvement).*

Arbitratour (arbitrator) may be taken to proceed from either the Latine (*arbitrator*) or the French (*arbitre*) it signifieth an extraordinarie Judge in one or moe causes, betweene partie and partie, chosen by their mutuall consents, *West. partie 2. Symbol. titulo Compromise, Sect. 21.* who likewise divideth arbitrement, into generall, that is, including all actions, quarrels, executions, and demands, and speciall, which is of one or moe matters, facts, or things specified, *eodem, sect. 2, 3.* 4. The Civilians make a difference betweene (*arbitrium & arbitratorum*) li. 76. n. *pro socio.* For though they both ground their power upon the compromise of the parties: yet their libertie is divers. For *arbitrator* is tyed to proceed, and judge according to

law, with equitie mingled: *arbitrator* is permitted wholly to his owne discretion, without solemnitie of processe, or course of judgement, to heave or determine the controversie committed unto him, so it be *juxta arbitrium boni viri.*

Arches court (Curia de archibus) is the chiefe and ancientest Consistorie that belongeth to the Arch-bishop of *Canterbury*, for the debating of Spirituall causes: and is so called of the Church in *London*, dedicated to the Blessed Virgin, commonly called *Bow-Church*, where it is kept. And the Church is called *Bow-Church* of the fashion of the Steeple or clocher thereof, whose top is raised of stone Pillars, builded Arch-wise, like so many bent bowes.

The Judge of this Court, is termed the Deane of the Arches, or the Officiall of the Arches Court. Deane of the Arches, because with this officialty, is commonly joyned a peculiar jurisdiction of thirteene Parishes in *London* termed a Deanrie, being exempted from the authoritie of the Bishop of *London*, and belonging to the Archbishop of *Canterburie*: of which the Parish of *Bow* is one and the chiefe, because the Court is there kept. Some others say, that he was first called *Deane of the Arches*, because

cause the official to the Archbishop, beeing many times employed abroad, in Ambassages for the King and Realme, the Deane of the Arches was his substitute in his court, and by that meanes the names became confounded. The jurisdiction of this Judge is ordinary, and extendeth it selfe thorow the whole province of Canterbury. So that upon any appeale made, he forthwith and without any further examination of the cause, sendeth out his Citation to the party appealed, and his inhibition to the Judge from whom the Appeal is made. Of this he that wil may reade more in the booke intituled, *De antiquitate ecclesie Britan. historia.*

Arma moluta seem to be sharpe weapons that do cut, and not blunt that do only break or bruise. *Bract.* lib. 3, tract. 2, cap. 23, & *Stamf. pl. cor.* fo. 78 & 79: wherof *Bracton* hath these words; *arma moluta plagam faciunt, sicut gladius, bisacuta, & bujusmodi: ligna vero & lapides brusuræ, orbis, & ictus, qui judicari non possunt ad plagam ad hoc, ut inde veniri possit ad duel-lum.*

Armor (*arma*) in the understanding of our common law is extended to any thing that a man in his anger or fury taketh into his hand, to cast at or strike another. *Cromptons* Justice of peace, fo. 65 a. So *armorum appellatio non utique scuta*

& *gladios & galeas significat, sed & fustes & lapides, lib. 42 π. de verbo significatione.*

Array, (*arraia*, alias *arraiamen-tum*) commeth of the French *Ar-ray*, i. *ordo*, which is an old word out of use. Or it may be wel deduced from *raye*, i. *linea*. It signifieth in our Common law, the ranking or setting forth of a jury or enquest of men impanelled upon a cause, a. 18 H. 6, c. 14. Thence is the verb to array a panel, *old N.B. fo. 157.* that is, to set forth one by another the men impanelled. The array shall be quashed, *old Nat. Br. fo. 157.* By statute, every array in assise ought to be made four dayes before. *Br. tit. Panel, nu. 10,* to challenge the array, *Kitchin, fo. lio 92.*

Arrayers seemeth to be used in the statute, anno 12 R. 2, ca. 6, for such officers as had care of the soldiers armour, to see them duely appointed in their kinds.

Arraine (*arraniare*) commeth of the French *arranger*, i. *astituere, ordinare*, that is, to set a thing in order or in his place: and the same signification it hath in our common law. For example, hee is sayd to arraigne a writ of *Novel disseisin* in a county, that fitteth it for triall before the Justices of the Circuit, *old Nat. brev. fo. 109. Littleton fo. 78,* useth the same word in the same sence, viz. the lease arraineth an assise of Novel dissei-

disseisin. Also a prisoner is said to be arraigned, where he is indicted and brought forth to his triall. Arraigned within the verge upon murder, *Starv. pl. cor. fo. 150.* The course of this arraignment you may read in *Sir Tho. Smith, de rep. Angl. l. 2, ca. 23.*

Arrearages (*arrearagia*) commeth of the French (*arrierages*, i. *reliqua*.) It signifieth the remaine of an account, or a summe of money remaining in the hands of an Accountant. It is used sometime more generally, for any money unpaid at the due time, as *arrearages of rent.* That this word is borrowed from France, it appeareth by *Tiraquel de utroque tractu, tomo 3 p. 32, num. 10.*

Arrest (*arrestum*) commeth of the French (*arrest*, i. *retinere, retinere, subsistere*) or rather it is a French word in it selfe, signifying a setting, stop, or stay, and is metaphorically used for a decree or determination of a cause debated or disputed to and fro: as (*arrest du Senat*, i. *placitum curie*.) In our Common Law it is taken most of all for a stay or stop, as a man apprehended for debt, &c. is sayd to be arrested. To plead in arrest of judgement, is to shew cause why judgement should be stayd, though the verdict of the twelve be passed. To plead in arrest of taking the enquest upon the former issue, is to shew cause why

an enquest should not bee taken, &c. *Brooke tit. Repleader.* Take this of learned Master Lambert, in his *Eirenarch. lib. 2, cap. 2, pag 94.* Buda, saith hee, in his Greeke Commentaries is of opinion, that the French word (*arrest*) which with them signifies a decree or judgement of court, tooke beginning of the Greeke *agerdos* i. *placitum*; and as we might say, the pleasure and will of a Court. And albeit it were not out of the way, to thinke that it is called an Arrest, because it stayeth or arresteth the party; yet I beleieve rather, that we received the same from the Norman lawes, because we use it in the same sence with them. For commonly with us, an arrest is taken for the execution of the commandement of some Court; or of some officer in justice. But howsoever the name began, an arrest is a certaine restraint of a mans person, depriving him of his owne will and liberty, and binding it to become obedient to the will of the Law, and it may be called the beginning of imprisonment. Precepts and writs of the higher courts of Law doe use to expresse it by two sundry words: as (*copias*) and (*attachies*) which signify to take or catch hold of a man. But this our precept noteth it by the words (*duci facias*) that is, cause him to be conveyed, &c. For that the officer

cer hath, after a sort, taken him before, in that he commeth unto him, and requireth him to goe to some Justice of the peace. Thus farre M. Lambert. And belike this word is spread farther than France : for Guile a German writer sheweth by his Tractate *de arrestis imperii*, that it is used also in the Imperial territories, and in the same signification, c. 1, n. 1.

Arrestandis bonis ne dissipentur, is a writ which lieth for him whose cartell or goods are taken by another, that during the controversie, doth or is like to make them away, and wil be hardly able to make satisfaction for them afterward. *Reg. orig. fo. 126 b.*

Arrestando ipsum qui pecuniam recepit ad proficiscendum in obsequium regis, &c. is a writ that lieth for the apprehension of him that hath taken prest mony towards the Kings wars, and lieth hidden when he should go. *Register orig. 24 b.*

Arresto facto super bonis mercatorum alienigenarum, &c. is a writ that lieth for a Denizen against the goods of strangers of any other country, found within the Kingdom, in recompence of goods taken from him in the said country, after he hath bin denied restitution there. *Reg. orig. fo. 129 a.* This among the ancient Civilians was called *clarigatio*, now barbarously *represalie*.

Arretted (arrestatus) is hee that is convented before a Judge, and charged with a crime, *Stawnspl. cor. li. 2. 45. quasi ad rectum vocatus*. It is used sometime for Imputed or layd unto, as no folly may be arretted to him being under age. *Littleton, cap. Remitter*. The Latine substantive *Rectum* is used in the *Regist. orig.* Chawcer useth the verbe *Arretteth*, *id est*, layeth blame, as M. Speight interpreteth it. I may probably conjecture that this word is the Latine (*Rectum* :) For *Bracton* hath this phrase, *ad rectum habere malefactorem*, i. to have the malefactor forth comming, so as he may be charged and put to his tryall, *lib. 3, tract. 2, ca. 10*. And in another place, *Rectatus de morte hominis*, i. charged with the death of a man, *cod. ca. 1. num. 3.*

Articles of the Clergie (articuli Cleri) be certaine statutes made touching persons and causes ecclesiasticall, *an. 9 E. 2.* like unto which there were other made, *an. 14 E. 3. stat. 3.*

Assay of measures and weights (assisa mensurarum & ponderum) *Reg. orig. fo. 279*, is the examination used by the Clerke of the market.

Assayer of the King is an officer of the Mint, for the due trial of Silver, indifferently appointed betwene the Master of the Mint,

and the Merchants that bring silver thither for exchange: *an. 2 H. 6 cap. 12.*

Assault (*insultus*) commeth of the french verb *assailier*. i. *adoriri*, *appetere*, *invadere*; which French also proceedeth from the Latine, *assilire*, i. *vim asferre*, *oppugnare*. It signifieth in our common Law, a violent kinde of injury offered to a mans person, of a higher nature than battery, for it may bee committed by offering of a blow, or by a fearefull speech, *M. Lambert* in his *Eirenar. li. 1, ca. 3.* whom reade. The Feudists call this *assultum*, and define it thus: *Assultus est impetus in personam aut locum, sive hoc pedibus fiat, vel equo, aut machinis, aut quacunque alia re assiliatur.* *Zafius de feud. parte 10, nu. 38.* And *assilire est vim adferre, adoriri, oppugnare, lib. feud. 1, titulo 5, § 1.*

Assach seemeth to bee a Welch word, and to signifie so much as a kinde of excuse or strange kinde of purgation by the oaths of 300 men, *an. 1 H. 5. ca. 6.*

Assart (*assartum*) in *M. Manwoods* judgement, *parte 2, c. 9, nu. 5* of his Forest lawes, commeth of the French *assortir*, signifying as he sayth, to make plaine, or to furnish; but rather indeed, to set in order, and handsomely to dispose. *Assartum est, quod redactum est ad culturam, Fleta lib. 4, ca. 21, §.* Item respondere. It signifieth, as

the sayd *M. Manwood* saith, *n. 1. ubi supra*, an offence committed in the Forest, by plucking up those woods by the roots, that are thickets or coverts of the Forest, and by making them plaine as earable land: where he also sayth, that an assart of the Forest is the greatest offence or trespassse of all other, that can be done in the forest, to vert or venison, containing in it as much as Waste, or more. For whereas the waste of the Forest, is but the felling and cutting downe of the coverts, which may grow again in time, an assart is a plucking them up, &c. Which he confirmeth out of the red booke in the Exchequer, in these words: *Assarta vero, occasiones nominantur, quando sc: foresta nemora vel dumeta, pascuis & latibulis ferarum opportuna, succiduntur: quibus succisis & radicibus avulsis, terra subvertitur & excolitur.* And againe, out of the *Regist. origin. fol. 257, a, b*, in the writ, *Ad quod damnum*, sent out in case where a man sueth for a licence to assart his grounds in the forest, and to make it severall for tillage. So that it is no offence if it be done with license. To this, may *Bracton* also be added, *lib. 4, cap. 38, num. 11*, where hee saith that these words, *boscus efficitur assartum*, signifie as much as *redactus in*

in culturam. Of this you may read more in *Cromptons Jurisdiction*, fo. 203. and in *charta de foresta*, an. 9 H. 3, ca. 4. where the English word is not *assart*, but *assett*. And in *Manwood*, part 1 of his *Forest lawes*, pag. 171. The word is used an. 4 Edw. 1, stat. 1. in the same signification. That which we call *assarium*, is elsewhere tearmed *Disboscatio*, *Decis. Genu. 74*.

Assembly unlawfull (*illicita assembleta*) commeth of the French *assembler*, i. *aggregare*, whence also is the substantive *assemblee*, i. *coitio*, *congregatio*. It is in our common Law, as *M. Lamberd* defineth it, *Eiren. lib. 1, ca. 19*. the company of three persons or more, gathered together to do an unlawful act, although they do it not. See *unlawfull assembly*.

Assets (*quod tantundem valet*) *Bract. l. 5. tract. 3. ca. 8. nu. 2*, is nothing but the French *assez*, i. *satis*. For though this word maske under the visard of a substantive, it is in truth but an adverb. It signifieth in our Common Law, goods enough to discharge that burthen, which is cast upon the executour or heire, in the satisfying of the Testators or Auncetours debts or Legacies. See *Brooke, titulo Assets per descent*: by whom you shall learne, that whosoever pleadeth assets sayeth nothing, but that he against whom he pleadeth hath enough descended or come

to his hands, to discharge that which is in demand. The Author of the new Terms of law maketh two sorts of Assets, viz. *assets par descent*, and *assets enter mains*; the former being to be alleadged against an heire, the other against an executor or administrator.

Assigne (*assignare*) both it selfe and the French *assigner* come of the Latine. It hath two significations: one generall, as to appoint a *deputè*, or to set over a right unto another. In which signification, *Britton fo. 122* sayth, This word was first brought into use for the favour of Bastards, because they cannot runne under the name of Heires to their fathers, and therefore were and are comprised under the name of *assignees*. The other signification of this word is especial, as to appoint at, or set forth, viz. to assigne Error. *Old nat. B. fo. 19*. is to shew in what part of the Proceffe Error is committed. To assigne false judgment, *eodem, fo. 17*. that is, to declare how and where the judgment is unjust. To assigne a false verdict, *eodem, fo. 112*. and to assigne an oath to be false, *an. 9 R. 2, ca. 3*. To assigne the Cessor, *Old nat. br. fo. 134*. to shew how the plaintife had cessed, or given over. To assigne wast, is to shew, wherein especially the wast is committed, *Reg. Orig. f. 72*.

Assigne, in the generall signification is used, *anno 20 Ed. 1.*, & *anno 11 H. 6. cap. 2.* in these words, Justices assigned to take assises. And the substantive (*assignement*) hath the same signification, *West's symb. parte 1, lib. 2, sect. 496, & seq.* In which manner is also used the adjective (*assignee, assignatus*) viz. for him that is appointed or deputed by another, to doe any act, or performe any businesse, or enjoy any commoditie. And an *assignee* may be either in deed or in Law. *Assignee* in deed, is he that is appointed by a person: an *assignee* in law, is hee whom the Law so maketh, without any appointment of the person. *Vide Dyer, fol. 6, num. 5.* *Perkins in Grauntes* sayth, that an *assignee* is hee that occupieth a thing in his owne right: and *Deputè*, he that doth it in the right of another.

Assise (*assisa*) commeth of the French word *assise*, which in the grand Customary of Normandy, *ca. 24.* is defined to this effect: *Assise* is an assembly of Knights and other substantiall men, with the Baylife or Justice, in a certaine place, and at a certaine time appointed. And againe, *cap. 55.* *Assise* is a court, in the which whatsoever is done, ought to have perpetuall strength. This Normane word *assise*, commeth of the French *asseoir*, i. *collocare*,

to settle or bestow in some place certaine: as *S' asséoir*, is to sit downe by another. And metaphorically it is used of things incorporeall, as *asséoir son jugement sur quel que lieu*, is, *interponere iudicium suum*. Of this Verbe commeth the participle *assis*, as *estre assis*, i. *sedere*. And this participle in the grand Customary of Normandy, *cap. 68.* is used as we would say: appointed, limited, or determined, viz. *au jour qui est assis à faire la bataille, se doivent les champions offrir à la justice*; That is, At the day which is appointed for the combat, the Champions ought to offer themselves to the Justice. So that by all these places compared together, it is evident whence the originall of this word *assise* floweth. How diversly it is used in our common law, it followeth that we declare. First, *Littleton* in the chapter *Rents* sayth that it is *equivocum*: where he setteth down three severall significations of it; one, as it is taken for a writ: another as it is used for a Jury: the third as for an ordinance. And him, he that listeth may reade more at large. My collections have served me thus: first, *assise* is taken for a writ directed to the Sheriffe, for the recovery of possession of things immooveable, whereof your selfe or your Auncestour have been disseised.

disseised. And this is as well of things corporall, as incorporeall rights, being of foure sorts, as here they follow in their order.

Assise of novel disseisin (*assisa nova disseisina*) lieth where a Tenant in fee simple, fee taile, or for tearme of life, is lately disseised of his lands or tenements, or else of a rent service, rent secke, or rent charge, of common of pasture, of an office, of toll, tronage, passage, pownage, or for a nuisance levied, and divers other such like. For confirmation whereof you may reade *Glanvile li. 10, cap. 2. Bracton li. 4, tract. 1, per totum. Britton ca. 70, & seq. Reg. orig. fol. 197. Fitz. Nat. brev. fo. 177, 178, 179. New booke of Entries, fo. 74, col. 3. West. 2, ca. 25. anno 13, Edw. 1.* And to this may aptly be added the bill of fresh force (*frisco fortia*) which is directed to the officers or magistrats of Cities or townes corporate, being a kinde of Assise for recovery of possession in such places within forty dayes after the force, as the ordinary assise is in the county, *Fitz. Nat. brev. fo. 7 c.* This the Civilians call *Judicium possessorium recuperandi*.

Assise of mort d' auncester (*assisa mortis antecessoris*) lieth where my father, mother, brother, sister, uncle, aunt, &c. died seised of lands, tenements, rents, &c. that he had in fee simple, and after his

death a stranger abateth: and it is good as well against the abatour, as any other in possession. How likewise this is extended, see *Bracton lib. 4, tract. 3, per totum. Britton ca. 70, cum multis sequent. Fitz. Nat. br. fo. 114. Reg. orig. fo. 223.* This the Civilians call *Judicium possessorium adipiscendi*.

Assise of darrein presentment, (*assisa ultima presentationis*) lieth, where I or myne ancestour have presented a Clearke to a Church, and after (the Church being voyd by the death of the said Clearke, or otherwise) a stranger presenteth his clerk to the same church, in disturbance of me. And how otherwise this writ is used, see *Bract. l. 4, tract. 2. Reg. orig. fo. 30. Fitz. Nat. br. fo. 195.*

Assise de utrum (*assisa utrum*) lieth either for a Parson against a Lay man, or a Lay man against a Parson, for land or tenement doubtfull, whether it be lay fee, or free almes. And of this see *Bracton lib. 4, tract. 5, ca. 1 & seqq. Britton ca. 95.* The reason why these writs be called assises, may be divers: First, because they settle the possession, and so an outward right in him that obtaineth by them. Secondly, they were originally sped and executed at a certaine time and place formerly appointed. For by the Norman Law, the time and place must

must bee knowne forty dayes before the Justices sate of them : and by our Law there must be likewise fifteene dayes of preparation, except they be tried in those standing courts of the King in Westminster, as appeareth by *F.N.B. fo. 177, d. e.* Lastly, they may be called Assises, because they are tried most commonly by especiall courts, set and appointed for the purpose, as may be well proved not only out of the Custumary of Normandy, but our bookes also : which shew, that in ancient times Justices were appointed by especiall Commission, to dispatch controversies of possession, one or more, in this or that onely county, as occasion fell out, or disseisins were offered, and that as wel in Term time, as out of Terme : whereas of later dayes, wee see that all these Commissions of assises, of Eyre, of Oyer and Terminer, of Gaole delivery, and of Nisi prius, are dispatched all at one time, by two severall circuits in the yeare, out of terme, and by such as have the greatest sway of justice, being all of them either the Kings ordinary Justices of his benches, Sergeants at the law, or such like.

Assise in the second signification, according to *Littleton*, is used for a Jury. For (to use his own example) it is set down in the beginning of the record of an

assise of novel disseisin, *assisa venit recognatura* ; which is as much to say, as *Juratores veniunt recognituri*. The reason why the Jury is called an Assise, he giveth to be this, because by the writ of assise, the Sherife is commanded, *quod faciat duodecim liberos et legales homines de viceneto, &c. videre tenementum illud, & nomina eorum imbrevari, & quod summoneat eos per bonas summonitiones, quod sint coram Justiciariis, &c. parati inde facere recognitionem, &c.* This is (as if he should have spoken shorter) *metonymia effecti*. For they are called the assises, because they are summoned by vertue of the writ so termed. And yet the Jury summoned upon a writ of right, is likewise called the assise, as himselfe there confesseth. Which writ of right is not an assise : but this may be sayd to bee *καταχρησμός*, or abusively so termed. Assise in this signification is divided in *magna* & *parvam*, *Glanville, lib. 2, cap. 6 et 7, &c.* and *Britton ca. 12.* where it appeareth, wherein the great assise differeth from the petit assise : whom I wish to be read, by those that would be further instructed in this point. For this place thus much in short. The former foure kinds of assises used in actions onely possessory, be called petit assises, in respect of the grand assise. For the law of feeſe

is grounded upon two rights: one of possession, the other of propertie: and as the grand assise serveth for the right of propertie, so the petit assise serveth for the right of possession. *Horns mirror of Iustices, lib. 2. cap. de novel. disseisin.*

Assise in the third signification according to *Littleton*, is an ordinance or statute: as the statute of bread and ale made, *anno 51. H. 3.* is termed the assise of bread and ale (*assisa panis & cervicie*) *Regist. orig. fol. 279. b.* The Assise of *Clarendon* (*assisa de Clarendon*) whereby those that be accused of any hainous crime, and not able to purge themselves by fire and water, but must abjure the realm, had liberty of fourty dayes to stay, and try what succour they could get of their friends, toward their sustenance in exile. *Strawnsf. pl. cor. fol. 118. out of Racion, li. 3. tract. 2. cap. 16. num. 2.* Of this also *Roger Hoveden* maketh mention, and more particularly then any that I have read, *parte poster. suorum annalium, fol. 313. b. in Henrico secundo.* Assise of the Forest (*assisa de Foresta*) which is a statute or constitution touching orders to be observed in the Kings Forest. *Manwood, parte 1. of his Forest lawes, pag. 35.* *Crompton* in the Court of the Iustices of the Forest per totum, *fol. 146. & seq.* And the assise of the King, *an. 18.*

Ed. 3. stat. 1. called the statute for view of Francke pledge. And these bee called assises, because they set downe and appoint a certaine measure, rate or order in the things which they concerne. Of Assise in this signification doth *Glinvile* also speake, *lib. 9. cap. 10. in fine.* *Generaliter verum est quod de quolibet placito quod in comitatu deducitur & terminatur, misericordia que inde provenit, vicecomiti debetur: que quantitas sit, per nullam assisam generalem determinatum est.* And thus much touching *Littletons* division. But if we marke well the writers of the Law, we shall finde this word (*assise*) more diversly used, then the Author hath noted. For it is used sometime for the measure or quantity it selfe, (and that per *Metonymiam effecti*) because it is the very scantline described or commanded by the ordinance: as for example; we say, when wheat, &c. is of this price, then the bread, &c. shall bee of this assise. This word is further taken, for the whole processe in court upon the writ of assise, or for some part thereof, as the issue or verdict of the Jury. For example, assises of new disseisin, &c. shall not be taken; but in their shires, and after this manner, &c. *mag. char. cap. 12.* And so it seemeth to signifie, *Westm. 2. cap. 25. anno 13.* *Ed. 1.* in these words

let the disseiffours alledge no false exceptions, whereby the taking of the Assises may bee deferred, &c. And anno. 34. Ed. 1. stat. 2. if it be found by assise: the assise is arraigned: to averre by the assise: the assise by their default shall passe against them: and also anno. 1. H. 6. cap. 2. assises awarded by default of the tenents &c. Lastly by Merton cap. 4. anno 20 H. 3. certified by the assise, quit by the assise, &c. And in this signification, *Glanvile* calleth it, *magnam assisam domini regis: que ex duodecim ad minus legalium hominum sacramentis consistit* li. 2. cap. 7. *Bracton* useth it in like sort: as *assisa cadit in transgressionem*, lib. 4. cap. 30. & *assisa cadit in perambulationem*, *idem*. cap. 31. num. 2. *Fleta* defineth an assise in this signification, thus: *Assisa in jure possessorio, est quedam recognitio duodecim hominum juratorum, per quam Justiciarii certiorantur de articulis in brevi contentis*. An assise also thus signifying, is said sometime to passe (per modum assise) and sometime in modum jurate, in manner of an assise, when onely the disseisin in question, is put to the triall of the twelve, in manner of a Iurie, when as any exception is objected to disable the interest of the disseisee, and is put to be tryed by the twelve, before the assise can passe. As for example; *Questio status,*

causa successionis, causa donationis, pactum sive conditio vel conventio, voluntas & dissimulatio, transactio, vel quietaclamatio vel remissio confirmatio sive consensus, propria usurpatio rei propria, difficultas judicii, justum judicium, finis, chirographum, intrusio in rem alienam, vel disseisina, si incontinenti rejiciatur, negligentia que per transitum temporis excludit actionem. *Fleta*, lib. 4. cap. 10. §. 1. whom reade also to this point, cap. 11. §. *Si autem à Domino*: and at large, cap. 16. ejusdem libri. & l. b. 5. cap. 6. §. *Item vertitur assisa & seq.* And note that assise in this signification, is taken foure wayes, *old. nat. br. fol. 105.* The first, is assise at large, which is taken as well upon other points, as upon the disseisin. For example, where an infant bringeth an assise, and the deed of his ancestor is pleaded, whereby he claimeeth his right or foundeth his title: then the assise shall be taken at large: that is, the Iurie shall enquire, not onely whether the plaintiffe were disseised or not by the tenent, but also of these other points: viz. whether his auncester were of full age, of good memory, and out of prison, when hee made the deed pleaded. Another example out of *Kitchin*, fol. 66. The tenent pleadeth a forraigne release, in barre to an assise, whereupon the cause was adjourned. At the day

day the tenent maketh default. Therefore the assise was taken at large: that is, not onely whether the plaintiffe were disseised, but also whether there be any such forraigne release. A third example you may reade in *Littleton, cap. Estates upon condition.* The second manner of assise in point of assise (*assisa in modum assise*) which is, when the tenent, as it were, setting foot to foot with the Demandant, without farther circumstance, pleadeth directly contrary to the writ, no wrong, no disseisin. The third manner is, assise out of the point of assise (*assisa extra-assisam, vel in modum jurata.*) viz. when the tenent alleageth some by exception, that must be tried by a Jurie, before the principall cause can proceed: as if hee plead a Forreine release, or Forreine matter triable in another countrie. For in this case, the Justices referre the Record to the court of Common pleas, for the triall of the Forreine plea, before the disseisin can come to be discussed. Of this sort reade divers other examples in *Bracton, lib. 4. parte 1. cap. 34.* For there be of them (as he saith) and *Britton* also, *cap. 52.* both dilatorie and peremptorie. The fourth and last manner is: assise of right of damages, and that is, when the tenent confessing a putting out, and referring it to a demurrer in

law, whether it were rightly done or nor, is adjudged to have done wrong. For then shall the Demandant have a writ to recover damages, which is called assise to recover damages, as also the whole processe.

Assise, is further taken for the court, place, or time, where and when the writs and processe of assise be handled or taken. And in this signification assise is generall: as when the Justices passe their severall Circuits, every couple with their Commission, to take all assises twice in the yeere. For hee that speaketh of any thing done, at that time, and in that place, will commonly say, that it was done at the generall assise. It may likewise be speciall, in this signification: as if an especiall Commission should be granted to certaine (as in ancient times they often were, *Bracton, lib. 3. cap. 11. in fine*) for the taking of an assise upon one disseisin or two: any thing done in the Court before them, a man would say, it was done at such an especiall assise. And in this very signification doth *Glanvil* use it, *lib. 9. cap. 12.* in these words: *Si contra dominum suum & non infra assisam, tunc distinguitur ipse occupator, &c.* and *lib. 13. cap. 32.* in these words: *cum quis itaque infra assisam domini regis. i. infra tempus a domino rege de consilio procerum*

ad hoc constitutum, quod quidvisque majus, quicquidque minus censetur, nullum iniuste & sine iudicio disseisiverit &c. Of this word *Affise*, you may read in *M. Skene de verbo. signif. verbo. Affise*, and by him understand, that in *Scotland* also it is diversly used; viz. in 5. severall significations. And touching the fifth signification, hee hath these words: An *Affise* is called a certaine number of men lawfully summoned, received, sworne and admitted to judge and discern in sundry civill causes, like as *Perambulations*, *Cognitions*, *Molestations*; *pourpescure*, division of lands, serving of Brieves, and in all and sundry Criminall causes decided and tried by an *Affise*: whereof there are two kinds: one ordinarily in use, which may be called a little *Affise* of the number of 13. or 15. persons: the other, called a great *Affise*, which consisteth of 25. persons, &c. The rest is very worth the reading.

Affisa continuanda, is a writ directed to the Justices assigned to take an *affise*, for the continuance of the cause, in case where certaine records alleaged, cannot in time bee procured by the party that would use it, *Reg. orig. fol. 217.*

Affisa preroganda, is a writ directed to the Justices of *Affise*, for the stay of proceeding, by reason of the Kings businessse, wherein the

partie is employed, *Regist. orig. fol. 208. and fol. 221.*

Associatio (*associatio*) is a patent sent by the King, either of his owne motion, or at the suite of the plaintife, to Iustices appointed to take *affises* of *novel disseisin*, or of *Oyer and Terminer*, &c. to take others unto them as fellowes and colleagues in that businessse. The derivation is plaine: the examples and sundry uses hereof you may find, in *Finz. nat. b. fol. 185. E. & fol. 111. B.* but more particularly in the *Reg. orig. fol. 201, 202, 205, 206, 207-223, 224.*

Affoile (*absolvere*) commeth of the french (*absoudre*) and signifieth to deliver or set free from an excommunication, *Stans. pl. wor. fol. 72.* in words to this effect: Otherwise the defendant should remain in prison untill the plaintiffe were *affoiled*, that is, delivered from his excommunication.

Assumpsit, is a voluntary promise made by word, whereby a man assumeth, or taketh upon him to performe or pay any thing unto another. This word containeth any verball promise made upon consideration, which the Civilians expresse by divers words, according to the nature of the promise, calling it some time *pactum*, sometime *sponsionem*, sometime *promissionem*, *pollicitationem* or *constitutum*, the word seemeth to be drawne from the La-

time (*assumptio*) *que significat professionem, l. π. ad municipalem.*

Attache (*attachiare*) commeth of the french (*attacher. i. figere, nectere, iligare, defigere, alligare.*) In our common law it signifieth, to take or apprehend by commandment or writ. And *M. Lambert* in his *Eirenarch. li. i. cap. 16.* maketh this difference betwene an Arrest, and an Attachment, that an Arrest proceedeth out of lower Courts by precept, and an Attachment out of higher Courts by precept or writ: and that a precept to Arrest hath these formall words (*duci facias, &c.* and a writ of Attachment these words: (*precipimus tibi quod attachies taken, & habeas eum coram nobis, &c.*) whereby it appeareth, that hee which arresteth, carrieth the party arrested to another higher person to be disposed of forthwith, hee that attacheth, keepeth the party attached, and presenteth him in Court at the day assigned in Attachment. Yet I observe out of *Master Kitchen*, that an attachment issueth out of a Court Baron, which is a low Court, *cap. Attachment in Court Baron, fol. 79.* Another difference there is, that an Arrest lieth onely upon the body of a man, and an Attachment sometime upon his goods, as (shall be shewed in the sequell). It may be likewise asked how an Attache-

ment and a (*capias*) do differ: and how an Attachment and a (*cape*) and an Attachment and a Distresse. First, that an Attachment differeth from a (*capias*) it appeareth by *Kitchin* in these words: *fol. 79.* Note that in a Court Baron a man shall be attached by his goods; and a (*capias*) shall not goe out thence: whereby I gather, that an Attachment is more generall, taking hold of a mans goods, and a (*capias*) of his body onely. Then an Attachment differeth from a (*cape*) in this, because a (*cape*) be it (*cape magnum*) or (*cape parvum*) taketh hold of immoveables, as lands or tenements, and are properly belonging to action reall: as you may gather out of their formes, in *Fitz. nat. br.* whereas Attachement hath rather place in Actions personall, as *Bracton* plainly setteth downe; *li. 4. tract. 4. ca. 5. nu. 3.* Where neverthelesse it appeareth, that a (*cape*) may be likewise used in an Action personall. An Attachment (as it is formerly said) taketh hold of moveable goods, or the body. For it appeareth by *Kitchin, f. 263.* that a man may be attached by a hundred Sheepe. Read *Skene, de verbo, significat. verbo Attachamentum.*

Now it followeth to shew how Attachment differeth from a Distresse. For so it doth, as may be shewed out of *Kitchin, fol. 78.*

where he saith, that proceſſe in Court baron, is Summons, attachment, and Distreſſe, out of the *Old nat. br. fol. 27.* where it is ſaid, that a proceſſe in a (*quare impedit*) is Summons, Attachment, and one Distreſſe, and againe, *fol. 28.* where (ſpeaking of the writ *Ne admittas*) he ſaith thus : And the proceſſe is one prohibition, and upon the prohibition an Attachement and Distreſſe; and *fol. 32.* in a writ of (*Indicavit*) you have theſe words : And after the Attachment returned, the Distreſſe ſhall goe out of the Roles of the Juſtices. *Bracton* on the other ſide, *l. 5. tract. 3. c. 4. nu. 2.* ſheweth, that both (*attachiamentum, & magnum cape, diſtrictiones ſunt.*) Of which opinion *Fleta* alſo is, *li. 5. ca. 24. §. ſi autem ad.* But there alſo he ſaith, that (*attachiamentum eſt diſtricta perſonalis, & cape magnum diſtrictio realis.* So that by his opinion, *diſtrictio* is (*genus*) to Attachment. *Britton* in his 26. chapter, hath words to this effect: But in Attachment of Felony, there commeth no Distreſſe, otherwiſe then by the body. And if the Sheriffe returne in the caſes aforeſaid, that the Treſpaſſours have nothing in his Bayliwick, by the which they may be diſtreined; it muſt be awarded that hee take their bodies, &c. In which place, an Attachement is plainly uſed, for an apprehenſion

of an offender by his goods. So that to conclude, I find no difference betweene an Attachment, and a Distreſſe, but theſe two: That an Attachment reacheth not to lands, as a Distreſſe doth; and that a Distreſſe toucheth not the body (if it be properly taken) as an Attachment doth. Yet are they divers times confounded, as may appeare by the places formerly alleaged, and by *Glanvill lib. 10. cap. 3.* and *Fleta li. 2. ca. 66. & ſeq.* Howbeit, in the moſt common uſe, an Attachment is an apprehenſion of a man by his body, to bring him to anſwere the Action of the plaintiffe: a Distreſſe is the taking of another mans goods, for ſome reall cauſe, as rent, ſervice, or ſuch like, whereby to drive him to replevie, and ſo to be plaintiffe in an Action of Treſpaſſe, againſt him that diſtreined him. And ſo much for the difference, and coherencie of theſe words. See alſo Distreſſe.

I find in *West. parte 2. ſymbolaio. titulo* proceedings in Chancerie, *ſect. 22, 23.* that Attachment out of the Chancerie is two-fold, one ſimple, and originally decreed for the apprehenſion of the partie: the other, after returne made by the Sheriffe *Quod defendens non eſt inventus in Baliva ſua*, with Proclamations made through the whole Countie, in ſuch places, as hee ſhall thinke

meete, that the partie appeare by a day assigned, and that hee be attached neverthelesse, if hee may bee found. This second kinde hath an affinity with the Canonists (*visi & modis*) at the which if the partie appeare not, he is excommunicate: or with the Civilians (*visi & modis uia cum intimatione*) for in the Chancery; if he come not upon this, he is forthwith pressed with a writ of rebellion.

There is an attachment of privilege, which is a power to apprehend a man in a privileged place, or else, by vertue of a mans privilege, to call another to this or that Court, whereunto hee himselfe belongeth, and in respect whereof, hee is privileged. New booke of Entries, *verbo privilege. fo. 431. col. 2.* There is also a forraine attachment, which is an attachment of a Forainers goods found within a liberty or city, to satisfie some creditour of his within the Citie. There is also an attachment of the forest, which is a Court there held. For as (*M. Manwood* saith) in his first part of Forrest Lawes, pag. 90. 92. 99. there bee three courts of the Forrest, whereof the lowest is called the (*attachment*) the meane, the (*swaynemore*) the highest, the (*Justice seate in Eyre.*) This court of attachment seemeth so to bee called, because the verderours of the forest have

therein no other authority, but to receive the attachments of offenders against vert and venison, taken by the rest of the officers, and to enroll them, that they may bee presented and punished at the next Iustice seate. *Manwood, parte. 1. pag. 93.* And this attaching is by three meanes, by goods and cattels, by body, pledges, and mainprise, or by the body onely. The court is kept every fourty dayes throughout the yeare. And he that hath occasion to learne more of this, I refer him to *M. Manwood, loco quo supra*, and to *M. Crompton* in his court of the forest. Attachment is commanded in writs, the diversitie whereof you may see, in the *Regist. orig.* under the word *Attachiamantum in indice.*

At large, see assise at large in the word assise, and *old. nat. br. fol. 105.* Verdict at large, *Littleton. fol. 98.* To vouch at large, *old. nat. br. fol. 108.* To make title at large. *Kiech. fol. 68.* See *Barre.*

Attaine (*attincta*) commeth of the French, as you shall see in the word (*attainted*;) But as it is a substantive, it is used for a writ, that lieth after judgement, against a Iurie that hath given a false verdict in any court of Record (bee the action reall or personall) if the debt or dammages surmount the summe of 40. shillings: what the forme of the writ is, and how in

in use it is extended, *Fitz. nat. br. fol. 105.* and the new booke of Enteries, *fol. 84. c. lumb. 1.* The reason why it is so called, seemeth to bee, because the partie that obtaineth it, endeavoureth thereby to touch, deprehend, or staine the Iurie with perjurie, by whose verdict hee is grieved. What the punishment of this perjurie is, or of him that bringeth the writ against the Jury, if he faile in his prooffe, see *Glanvile, lib. 2. cap. 19. Fitz. nat. br. fol. 109. K. L. & 110. A. B. C. D. &c.* the Termes of the law, *verb. Attaint. Fortescue, cap. 26. Smith de rep. Anglo. lib. 3. cap. 2. and anno 11. Hen. 7. cap. 21. & anno 23. H. 8. cap. 3. and others.* In what diversity of cases this writ is brought, see the Register *orig. in Indice.*

Attainted (attinctus) commeth of the French (*teindre. i. tingere*) the participle whereof is (*teinct. i. tinctus*) or else of (*attaindre. i. assequi, attingere.*) It is used in our common law, particularly for such as are found guiltie of some crime or offence, and especially of felony or treason. How be it a man is said to bee attainted of disseisin, *Westm. 1. cap. 24. & 36. anno 3. Ed. 1.* And so it is taken in French likewise (*as estre attaint & vayncu en aucun cas*) is to bee cast in any case. Which maketh mee to thinke that it ra-

ther commeth from (*attaindre*) as wee would say in english catched, overtaken, or plainly deprehended. And *Britton, cap. 75.* useth the participle (*attaint*) in the sence that wee say (*attained unto*) a man is attainted by two meanes: by appearance or by processe. *Stamf. pl. cor. fol. 44.* Attainder by appearance, is by confession, by battell, or by verdict, *idem. fol. 122.* Confession whereof attaint groweth, is double: one at the barre before the Iudges, when the prisoner upon his enditement read, being asked guilty or not guilty, answereth guilty, never putting himselfe upon the verdict of the Iurie: the other is before the Coroner in sanctuarie, whete hee upon his confession was in formertimes constrained to abjure the Realme: which kind also of the effect, is called Attainder by abjuration. *Idem, fol. 182.* Attainder by battell is, when the partie appealed by another, and chusing to try the truth by combat rather then by Iurie, is vanquished. *Idem, fol. 44.* Attainder by verdict is, when the prisoner at the barre answering to the enditement, not guilty: hath an enquest. of life and death passing upon him, and is by their verdict or doome pronounced guilty. *Idem, fol. 108. & 192.* Attainder by processe (otherwise called attainder by de-

default, or attainer by outlagary) is where a partie flyeth, and is not found untill he have beene fivetimes called publikely in the countie, and at the last out-lawed upon his default, *Idem fol. 44.* I find by the same Author, *fol. 108.* that hee maketh a difference betweene attainer and conviction, in these words: And note the diversitie betweene attainer and conviction, &c. And with this agreeth the Statute, *ann 34. & 35. H.8. cap. 14. in ipso principio*, and *anno 1. Edw. 6. cap. 12.* in these words: that then every such offender being duely thereof convicted or attainted, by the lawes of this Realme, &c. And againe, in these words: Every woman that is, or shall fortune to be wife of the person so attainted, convicted, or outlawed, &c. To this you may likewise add the statute, *anno 2. & 3. Edw. 6. cap. 33.* And I find by *Stawf. pl. cor. fol. 66.* that a man by our ancient lawes, was said to be convicted presently upon the verdict (guiltie) but not to bee attainted, untill it appeared that he was no Clerke: or being a Clerke, and demanded of his Ordinary, could not purge himself. So that a man was not attainted upon conviction, except hee were no Clerke: and in one word, it appeareth, that attainer is larger then conviction; conviction being only by the Jurie.

And attainer is not before judgement, *Perkins Graunts, num. 27. 29.* Yet it appeareth by *Stawf. fol. 9.* that conviction is called attainer sometime. For there he saith, that the verdict of the Jurie doth either acquit, or attaint a man: and so it is *Westm. pr. ca. 14. anno 3. Edw. 1.* This ancient law touching the conviction and purgation of Clerkes, is altered by *anno 23. Eliz. cap. 2.* as you may farther read in *Clergie.*

Attainer (Attindur) though it be most used in matters of felonie and treason: yet is it likewise applyed to inferiour transgressions, as to disseisin, *Westm. 1. cap. 36. anno 3. Ed. 1. and Britton cap. 26.* See *Attaint*, and *Attainted.*

Attendant (attendens) cometh of the French (*attendere*) i. *demorari, operiri, expellare, prestolari*) it signifieth in our common law; one that oweth a duetie or service to another, or after a sort dependeth of another. For example, there is Lord, mesne, and tenent: the tenent holdeth of the mesne by a peny; the mesne holdeth over by two pence. The meane releaseth to the tenent all the right he hath in the land, and the tenent dieth. His wife shall be endowed of the land, and shee shall be attendant to the heire of the third part of the peny, and

not of the third part of the two pence. For she shall be endowed of the best possession of her husband. Another hath, *Kitchin. fol. 209.* in these words : where the wife is endowed by the gardian, she shall be attendant to the gardian, and to the heire at his full age : with whom agreeth *Perkins* also, in *Dower. 424.*

Attorney (*attornatus*) cometh of the french (*tourner. i. verteré*) as (*tourner son esprit a faire quelque chose, i. animum ad rem aliquam inclinare.*) Thence cometh the participle (*tourne. i. versus, conversus*) and the Substantive (*tour. i. vicis, vicissitudo*) as, *chacun a son tour, i. quilibet sua vice.*) It signifieth in our common law, one appointed by another man to do any thing in his stead, as much as (*procurator*) or (*syndicus*) in the civill law, *West. parie. 1. Symbolayogr. lib. 2. sect. 559.* defineth it thus : Attorneys bee such persons, as by the consent, commandement, or request doe take heed, see to, and take upon them the charge of other mens businesse in their absence, by whom they are commanded or requested. And where it seemeth that in ancient time, those of authority in Courts, had it in their arbitrement, whether they would suffer men to appeare, or sue by any other then themselves, as is evident by *Fitzb. nat. br. fol. 25.*

in the writ *Dedimus potestatem de attornato faciendo*, where it is shewed, that men were driven to procure the Kings writs or letters patents to appoint Attorneys for them : it is thence provided by Statutes, that it should be lawfull so to doe without any such circuit, as by the Statute, *anno 20. H. 3. cap. 10. anno 6. Edw. 1. cap. 8. anno 27. ejusdem. stat. 2. anno 12. Edw. 2. 1. anno 15. ejusdem. cap. unico. anno 7. Ric. 2. cap. 14. anno 7. H. 4. cap. 13. anno 3. H. 5. cap. 2. anno 15. Hen. 6. cap. 7. & anno 17. H. 7. cap. 2.* is to be proved. And you may see great diversity of writs, in the table of the *Regi. origen.* wherein the King by his writ commandeth the Judges to admit of Attorneys. Whereby there grew at the last so many unskilfull Attorneys, and so many mitchiefes by them, that provision for restraining them was requisite. Wherefore *anno 4. H. 4. cap. 18.* it was ordained, that the Justices should examine them, and displace the unskilfull. And againe, *anno 33. H. 6. cap. 7.* that there should bee but a certaine number of them in *Norfolke* and *Suffolke*. In what cases, a man at this day may have an Attorney, and in what not ; see *Fitzb. ubi supra.* Attorney is either generall or speciall : Attorney generall is hee, that by generall authority is appointed to all our affaires

fares or suits : as the Atturney generall of the King, *pl. cor. fol. 152.* which is as much as (*Procurator Caesaris*) was in the Romane Empire. Atturney generall of the Duke, *Cromptons Jurisd. fol. 105.* Atturney speciall or particular is hee, that is employed in one or more causes particularly specified. Atturneys generall, be made after two sorts : either by the Kings Letters Patents before him or the Lord Chancelour, or by our appointment before Justices in Eyre in open court, *Glanvile li. 11. cap. pri. Britton, cap. 126.* whom of this thing you may read more at large. There be also in respect of the divers courts, Atturneys at large, and Atturneys speciall, belonging to this or that Court only. The name is borrowed of the Normanes, as appeareth by the Custumarie, *cap. 65.* And I find the word (*Attornati*) or as some read (*Tornati*) in the same signification in the title (*de statu regularium. ca. unico. Sect. Porro in sexto.*) where the glosse saith, that *Attornati dicuntur Procuratores apud astra constituti.* Our old latine word for this seemeth to be (*responsalis*) *Bract. lib. 4. cap. 31. & lib. 5. parte 2. cap. 8.* and so it is in Scotland at this day, but especially for the Atturney of the Defendant, as (*prolocutor*) is for the Perssewer. *M. Skene de verb. significatione.*

Responsalis, as *Sigonius* witnesseth, in his first booke *De regno Italie*, was in auncient time, the title of the Popes Ambassadour, Page 11.

Attorney of the Court of Wards and Liveries (*Attornatus regis in curia Wardorum & Liberatuarum*) is the third office in that Court, who must be a person learned in the lawes of the Land, being named and assigned by the King. At his admission into the office, hee taketh an oath before the Master of the said Court, well and truly to serve the King, as his Attorney in all Courts, for and concerning any matter or cause, that toucheth the possessions and hereditaments limited to the Survey and government of this Court; and to procure the Kings profit thereof : truly to counsell the King, and the Master of the Court; in all things concerning the same, to the best of his cunning, wit, and power : and with all speed and diligence from time to time at the calling of the Master, to endeavor himself for the hearing and determination indifferently of such matters and causes, as depend before the Master : not to take any gift or reward in any matter or cause depending in the Court, or elswhere, wherein the King shall be partie, whereby the King shall be hurt, hindred, or disinherited : to do to his power,

wit and cunning, all and every thing that appertaineth to his office.

Attorney of the Court of the Dutchie of Lancaster (*Attornatus curie Ducatus Lancastrie*) is the second officer in that Court, and seemeth, for his skill in law, to be there placed as (*assessor*) to the Chancellor of that Court, being for the most part, some honorable man, and chosen rather for some especiall trust reposed in him, to deale between the King and his tenants, then for any great learning, as was usuall with the Emperors of *Rome*, in the choice of their Magistrates.

Attournment (*attornamentum*) commeth of the French (*tourner*, i. *vertere*) and in our common law, is an yeelding of the tenant to a new Lord, or acknowledgement of him to be his Lord. For otherwise hee that buyeth or obtaineth any lands or tenements of another, which are in the occupation of a third, cannot get possession: yet see the statute, *an. 27. H. 8. cap. 16.* The words used in Attournment are set downe in *Littleton*. I agree mee to the grant made to you, &c. But the more common Attournment is to say: Sir, I attourn to you by force of the same grant: or, I become your tenant, &c. or else deliver unto the Grantee a penny, halfe-penny, or farthing, by way of At-

tournment, *Littleton lib. 3. cap. Attournment*, 10. whom you may reade more at large, and find that his Definition proceedeth from more Law then Logicke; because he setteth downe divers other cases in the same chapter, wheretoe Attournment appertaineth as properly as unto this. But you may perceive there, that Attournment is the transposing of those duties that the tenant ought to his former Lord, unto another, as to his Lord: and also, that Attournment is either by word, or by act, &c. Also Attournment is voluntary, or else compulsory, by the writ rearmed *Per que servitia*, *Old nat. br. fol. 155.* or sometime by Distresse, *Fitzh. nat. br. fol. 147.* Lastly, Attournment may be made to the Lord himselfe, or to his Steward in Court, *Kitchin, fo. 70.* And there is Attournment in deed, and Attournment in Law, *Coke vol. 6. fo. 113. a.* Attournment in Law, is an act, which though it be no expresse Attournment, yet in intendment of Law is all one.

(*Attornato faciendo vel recipiendo*) is a writ which a man owing suit to a Countie, Hundred, Wapen-take, or other Court, and desiring to make an Attourney to appeare for him at the same Court; whom, he doubteth whether the Sheriffe or Baliffe will admit or not for his Attourney there,

there, purchaseth, to command him to receive such a man for his Attourney, and admit his appearance by him. The form, and other circumstances whereof, see in *Fitzh. nat. br. fo. 156.*

Audiendo & terminando, is a writ, but more properly termed a Commission, directed to certaine persons, when as any great assembly, insurrection, or heinous demeanure or trespasse is committed in any place, for the appeasing, and punishment thereof, which you may read at large, in *Fitzh. nat. br. fo. 110.* See also *Over & Terminer.*

Audience Court (*Curia audientie Cantuariensis*) is a Court belonging to the Arch-bishop of *Canterburie*, of equall authoritie with the Arches Court, though Inferiour both in dignitie and antiquitie. The originall of this Court was, because the Arch-bishop of *Canterbury* heard many causes extra judicially at home in his own Palace, in which, before hee would finally determine any thing, hee did usually commit them to be discussed by certaine learned men in the civill & canon lawes, whom thereupon be termed his Auditors. And so in time it grew to one especiall man, who at this day is called (*Consarum negotiorumq; audientie Cantuariensis auditor seu officialis*). And with this office hath heretofore com-

monly been Joynted the Chancellership of the Arch-Bishop, who medleth not in any point of contentious Jurisdiction, that is, deciding of causes betweene party and party (except such as are ventilated *pro forma* onely, as the confirmation of Bishops Elections, or such like) but only of office, and especially such as are *voluntarie jurisdictionis*, as the granting of the custody of the Spiritualities, during the vacation of Bishopricks, Institutions to Benefices, dispensing with Banes of Matrimonie, and such like. But this is now distinguished in person from the Audience. Of this Audience Court, you may read more in the booke, intituled *De antiquitate ecclesie Britannie historie*.

Audita querela, is a writ that lieth against him, who having taken the Bond called (*Statute Merchant*) of another, and craving or having obtained execution of the same at the Maior and Bailiffes hands, before whom it was entered, at the complaint of the partie who entered the same, upon suggestion of some just cause why execution should not be granted; as a release, or other exception. This writ is granted by the Chaunceler of *England*, upon view of the exception suggested, to the Justices of the Common banke, or of

the Kings Bench, willing them to grant Summons to the Sheriffe of the countie, where the creditour is, for his appearance at a certaine day before them. See more in *Old nat. br. fo. 66.* and *Fitzh.nat. br.fo.102.*

Auditour (*auditor*) commeth of the French (*auditeur*) and in our law, signifieth an Officer of the King, or some other great personage, which yearely by examining the accounts of all under officers accountable, maketh up a generall booke, that sheweth the difference between their receipts or burthen, and their allowances, commonly called (*allocations*) as namely, the Auditours of the Exchequer, take the accounts of those Receivers, which receive the revenues of the Augmentation: as also of the Sheriffes, Escheatours, Collectours, and customers, and set them down and perfect them. Him that will read more of this, I referre to the *Statute, anno, 33. H.8.ca.33.*

Auditours of the Prests, are also officers in the Exchequer, that doe take, and make up the great accounts of Ireland, Barwick, the Mint, and of any money imprested to any man.

Auditour of the Receites, is an officer of the Exchequer, that fillethe the Tellers bills, and maketh an entry of them, and giveth to

the Lord Treasurer a certificate of the money received the week before. He maketh also (*Deben-turs*) to every Teller, before they pay any money, and taketh their accounts. He keepeth the Black booke of the Receipts, and the Treasurers key of the Treasury: and seeth every Tellers monies locked up in the new Treasury.

Aventure, is a mischance, causing the death of a man without Felonie: as when he is suddenly drowned, or burnt, by any sudden disease falling into the water or fire, *Briston. ca. 7.* where you may see what it differeth from Misadventure. See *Misadventure*.

Average (*averagium*) by *M. Skenes opinion* (*verborum significacione*) de *verborum significacione*, commeth of the word (*averia*.) i. a beast, and so consequently signifieth service which the tenant oweth to the Lord, by horse, or cariage of horse. I have heard others probably derive it from the French (*envrage*) or (*envre. i. opus*.) It seemeth with us to have two divers significacions: For the first, *Rastall. titulo, Exposition of words*, maketh mention of the Kings averages, which I take to be the Kings cariages by horse or cart. Then *anno 32. H.8.ca. 14.* and *anno 1. Jacobi, ca. 32.* it is used for a certaine contribution that Merchants and others doe every man pro-

proportionably make toward their losses, who have their goods cast into the sea for the safeguard of the ship, or of the goods and lives of them in the Ship in time of a tempest. And this contribution seemeth to be so called, because it is proportioned, after the rate of every mans average or goods carried.

Averius captis in withernam, is a writ for the taking of cattell to his use, that hath his cattell taken unlawfully by another, and driven out of the county where they were taken, that they cannot be replevied. *Register origen. fol. 82. a. b.*

Averment (*verificatio*) cometh of the French (*averer. i. testari*) as *averer quelque meschancete. i. extrahere scelus aliquod in lucem ex occultis tenebris*. It signifieth (according to the Author of the termes of law) an offer of the defendant to make good, or to justifie an exception pleaded in abatement or barre of the plaintiffes act. But me thinketh it should rather signifie the act, then the offer or justifying the exception, by divers places where I find it used. For example, *an. 34. Ed. 1. stat. 2.* And the demandant will offer to aver by the assise or Jurie; where to offer to aver and to aver must needs differ: and again in the same statute, and the demandant will offer to averre by

the country, &c. thirdly in the English, *nat. br. f. 57.* These errors shall be tried by averment, &c.

Aver pennie (*quasi Average pennie*) is money contributed toward the Kings averages. *Rastall* exposition of words. See *Average*.

Augmentation (*augmentatio*) was the name of a court, erected, the seven and twentieth yeare of *Henry* the 8. as appeareth by the 27. chapter of that years parliament. And the end thereof was, that the King might be justly delt with touching the profit of such religious houses and their lands, as were given unto him by act of Parliament the same yeare not printed. For the dissolving of which court, there was authority given to *Queene Mary*, by the Parliament held the first yeare of her raigne, *ses. 2. cap. 10.* which she afterward put in execution by her letters patents. The name of the court grew from this, that the revenues of the Crowne were augmented so much by the suppression of the said houses, as the King reserved unto the Crowne, and neither gave nor sold away to others.

Aulne of Renish wine. a. 1. Ed. 6. cap. 13. alias, Awoe of Renish wine. 1. Jaco. ca. 33. is a vessell that containeth forty gallons.

Aulnoeour. See *Alneger*.

Avo, is the name of a writ for the which see (*Ayle.*)

Auncell weight, as I have beene informed, is a kind of weight with scoles hanging, or hookes fastened at each end of a staffe, which a man listeth up upon his fore-finger, or hand, and so discerneth the equality or difference betweene the weight and the thing weighed. In which, because there may, and was wont to be great deceit, it was forbidden, *anno 25. Edw. 3. stat. 5. ca. 9.* & *anno 34. ejusdem, cap. 5.* and the even ballance onely commanded; yet a man of good credit, once certified mee, that it is still used in Leaden Hall at London among Butchers, &c. In the derivation of this word, I dare not bee over confident. But it may probably be thought to bee called (*awncell weight, quasi hand sale weight*) because it was and is performed by the hand, as the other is by the beame. And if I should draw it from the Greeke, *αγκών*, i. *cubitus*. the part of the arme from the elbow to the fingers ends, I might challenge a good warrant of this from the Romanes; who thence derived their (*ancile*) i. the luckie shield, that was said to be sent from heaven in a tempest to *Numa Pompilius*, together with a voice, that the citie of Rome should be the mightiest of all others, so long as that shield remained in it.

Auncient demeasne (*antiquum dominicum*) is called (more at large) auncient demeasne of the King or of the Crowne. *Fitz.nat. br. fol. 14. d.* It commeth of two French words (*auncien. i. veter, vetus, veteranus, antiquum*) and of (*demaine, alias domaine. i. publicum vectigal*). It signifieth in our common law, a certaine tenure, whereby all the mannors belonging to the Crowne, in the dayes of *Saint Edward*, the Saxon King, or of *William the Conquerour*, did hold. The number and names of which mannors, as all other belonging to common persons, he caused to be written into a booke, after a survey made of them, now remaining in the Exchequer, and called Domes day booke. And those, which by that booke doe appeare, to have belonged to the Crowne at that time, and are contained under the title (*Terra regis*) be called auncient demeasne. *Kitchin, fol. 98.* and *M. Gwin.* in the Preface to his readings. Of these tenents there were two sorts, one that held their land franckely, by charter, and another that held by copie of court roll, or by verge, at the will of the Lord, according to the custome of the mannor. *Fitz.nat. br. f. 14. d.* of which opinion also *Britton* is. *ca. 66. nu. 8.* The benefit of this tenure, consisteth in these points: first, the tenents of a mannor holding

ding freely by Charter in this sort, cannot be impleaded, out of the same maner: and if they be, they may abate the writ, by pleading their tenure before or after answer made. Secondly, they be free of tolle for all things concerning their sustenance and husbandry. Thirdly, they may not be impanelled upon any enquest. **Termes of the Law.** But more at large by *Fitz. nat. br. f. 14. d.* whom reade also, *fo. 128. a, &c.* And as it appeareth by him, *eadem fol. 4. b, c.* these tenents held by the service of plowing the Kings land, by plashing his hedges, or by such like, toward the maintenance of the kings household; in which regard they had such Liberties given them, wherein, to avoid disturbance, they may have writs to such as take the duties of Tolle in any market or faire, as likewise for immunitie of portage, passage and such like. *Fitz. b. natura brev. fol. 228. a, b, c, d.* By which Authour also it appeareth, That no lands be to be accounted Antient Demeasne, but such as are holden in Socage, *fol. 13 d, & 14. b, c.* See *Monstraverunt*, and *Fitz. verb. fol. 14.* and *Desseñdo quietum de telonio*, *fol. 226.* *Electa* maketh three tenures holding of the Crown, Ancient demeasne, by Escheate, and by Purchase, *li. 1. c. 2.* See *Demaine*.

Auncient Demeasne *avere* (antiquum

dominicum à retro) is that auncient demeasne which the King granteth over to hold of a mannor, *Kitch. fol. 67. b.*

Avowè (*advocatus*) see *Avowè*. Britton saith, that *Avowè* is hee to whom the right of Advowzen of any Church appertaineth, so that he may present thereunto in his owne name, and is called *Avowè*, for a difference from those that sometime present in another mans name, as a Gardian that presenteth in the name of his Ward: and for a difference also from them which have the lands wherunto an advowzen appertaineth, but only for terme of their lives, or of yeers, or by intrusion or Disseisin, *cap. 92.*

Avowrie, see *advowry*.

Avoir de poix, is in true French, (*avoir du poix*, i. *habere pondus*, aut *justi esse ponderis*). It signifieth in our common law two things, first a kinde of weight divers from that which is called Troy weight, containing but twelve ounces to the pound, whereas this containeth fixteene. And in this respect it may bee probably conjectured, that it is so called because it is of more weight than the other. Then also it signifieth such merchandise as are weighed by this weight, and not by Troy weight, as in the statute of Yorke, *anno 9 Edw. 3.* in *procm.* *anno 27 Edw. 3. statut. 2. ca. 10. & anno 2*

Rich. 2, cap. 1. See Weights.

Auxilium ad filium militem faciendum, & filiam maritandam, is a writ directed to the Sheriffe of every county, where the King or other Lord hath any tenents, to levy of them reasonable ayde toward the knighting of his son, and the marriage of his Daughter. See *Ayde*, and *Fitzh. Nat. Brev. fol. 82.*

B

Bachelor (*bachelareus*) cometh of the French *bach-* *lier*, i, *tyro*; and thereupon I think, those that be called Bachelers of the companies in London, be such of each company as bee springing towards the estate of those that be employed in counsell, but as yet are inferiours. For every company of the twelve consisteth of a Master, two Wardens, the Livery, which are assistants in matter of counsel, or at the least such as the Assistants be chosen out of, and the Bachelers, which are yet but in expectance of dignity among them, and have their function only in attendance upon the Master & wardens. I have read in an old monument, this word Bachelor attributed to the Lord Admiral of England, if he be under a baron, in French words to this effect: And it is to weet, that when the Admirall rideth to assemble a ship of

war, or other, for the busines and affaires of the realme, if hee be a Bachelor, he shal take for his days wages 4 s. sterling: if hee be an Earle or Baron, he shall take wages after the rate of his estate and degree. This word is used, *m. 13 R. 2, stat. 2, c. 1.*, and signifieth as much as Bachelor knight doth, *anno 3 Ed. 4, ca. 5.* that is, a simple knight, not a knight banneret. See *B. meret.* Touching the farther etymologie of this word, *Bachalarii*, teste *Renano*, à *Bacillo nominati sunt quia primi studii auctoritatem, quæ per exhibitionem baculi concedebatur, jam consecuti fuissent. Ut fuerit velut quoddam mancipationis signum in hujusmodi aliquod studium baculi traditio. Alciat* writeth the word, *baccalaurei, ensque dicitur visos à bacca laurea nomen sumpsisse in l. cui precipua 57. a. de verbo signif.*

Backberend, is a Saxon word, and almost English at this day, signifying as much as bearing upon the backe, or about a man. *Bracton* useth it for a signe or circumstance of manifest theft, which the Civilians call *Furtum manifestum*. For dividing *Furtum*, in *manifestum & non manifestum*, hee defineth *furtum manifestum* in this sort: *Furtum verò manifestum est, ubi latro deprehensus est seiscitus de aliquo latrocinio: sc. baud habend. & backberend, & insecutus furtis per aliquem cujus res illa fuerit. l. 3. tract.*

tract. 2, ca. 32. Master *Mannwood* in the second part of his forest lawes, noteth it for one of the foure circumstances, or cases, wherein a Forrester may arrest the body of an offender against vert or venison in the Forest. For by the assistance of the Forest of Lancaster (saith he) taken with the manner is, when one is found in the kings forest, in any of these foure degrees, *sc.* Stable stand, Dog draw, Backe bear, and Bloudy hand. In which place you may find all these interpreted.

Bayle, commeth of the French (*bagage, i. sarcina, impedimentum*) It signifieth with us, one that buyeth corne or victuals in one place, and carrieth it into another. See *Cromptons Justice of Peace*, f. 69 et 70.

Baye, or *Penne*, is a Pond head made up of a great height, to keep in a great quantitie or store of water, so that the wheelles of the furnace or hammer belonging to an iron mill, may stand under them, and be driven by the water comming out of them, by a passage or floud gate (called the *Penstocke*) and falling upon the sayd wheelles. This word is mentioned in the statute, *an. 27 Elizab. ca. 19.*

Bayle (*ballium, plevina, manucapto*) commeth of the French (*bailler, i. attribvere, tradere, tribuere.*) It is used in our common law

properly for the freeing or setting at liberty of one arested or imprisoned upon action either civill or criminall, under surety taken for his appearance at a day and place certainly assigned, *Bracton lib. 3, tract. 2, cap. 8, num. 8, et 9.* The reason why it is called *Bayle*, is because by this meanes the party restrained is delivered into the hands of those that binde themselves for his forth-comming. There is both common and speciall bayle. Common bayle is in actions of small prejudice, or slight prooffe, beeing called common, because any Sureties in that case are taken: whereas upon causes of greater weight, or apparant specialtie, speciall bayle or surety must be taken: as Subsidy men at the least, and they according to the value. Master *Mannwood* in his first part of Forest lawes, *pa. 167.* maketh a great difference betweene bayle and Mainprise, in these words: and note that there is a great diversity between baile and mainprise. For hee that is mainprised, is alwayes sayd to be at large, and to goe at his own liberty out of ward, after that he is let to mainprise, untill the day of his appearance, by reason of the said common summons, or otherwise. But otherwise it is, where a man is let to bayle, by foure or two men, by the Lord

chiefe Justice in the Eyre of the forest, untill a certaine day. For there hee is alwayes accounted by the law, to be in their ward & custody for the time. And they may if they will, keepe him in ward or in Prison at that time, or otherwise at their will. So that he which is so bayled, shall not bee sayd, by the Law to be at large, or at his own liberty: see *Lamberts Eiren. l. 3, ca. 2, pag. 330*. Bayle is also a certaine limit within the Forest, accordingly as the forest is divided into the charges of severall foresters. *Crompton* in the Oath of the Bow-bearer, fol. 201. See *Maynprife*.

Bayliffe (*ballivus*) commeth of the French (*bailif, i. diacetes, nomarcha, praefectus provincia*) and as the name, so the office it selfe, in ancient time was very answerable to that of France and Normandy: for as in France there be fixteene Parlements, (*Lupanus de Magistratibus Francorum, lib. 2. cap. Parliamentum*) which bee high Courts, whence lieth no appeale: and within the precincts of those severall parts of that kingdome, that belong to each Parliament, there be severall provinces, unto which, within themselves, Justice is ministred by certaine officers called Bayliffes: So in England wee see many severall Counties or Shires, within the which Justice

hath beene ministred to the Inhabitants of each countie, by the officer whom we now call Sheriffe or Vicount (one name descending from the Saxons, the other from the Normans.) And though I cannot expressly prove, that this Sheriffe was ever called a Baylife: Yet is it probable that that was one of his names likewise, because the Countie is called many times (*Balliva*) that is, a Bayliwick: as namely in the retorne of a writ with (*Non est inventus*) hee writeth thus: *A. S. infra scriptum, non est inventus in Balliva mea, post receptionem hujus brevis*) *Kitchin, returna brevium, fo. 258*. And againe in *Bracton, lib. 3, tract. 2, cap. 33, num. 3*. And anno 5 *Eliz. cap. 23*. and anno 14 *Edw. 3. stat. 1, cap. 6*. And I thinke the word (*Baylife*) used, *ca. 28, of Magna charta*, compriseth as well Sheriffes, as Baylifes of Hundreds: as also anno 14 *Edw. 3. stat. 1. ca. 9*. But as the Realm is divided into Counties, so every county is againe divided into Hundreds: within the which it is manifest, that in antient time the Kings subjects had justice ministred unto them by the severall Officers of every Hundred, which were called Bayliffes, as those officers were and are in France and Normandie, being chiefe officers of justice within every

every Province, *Lupanus de Magistratibus Francorum, lib. 2. cap. Balivi.* and the Grand Customary of Normandie, *cap. 1.* And that this is true among many others, I bring *Bracton* for my witnessse, *lib. 3. tract. 2. cap. 34. nu. 5.* where it appeareth that Bailiffes of Hundreds might hold plee of Appeale and Approvers. But sithence that time, these Hundred Courts (certaine Franchises excepted) are by the Statute, *anno 14. Ed. 3. stat. 1. cap. 9.* swallowed into the Countie Courts, as you may reade in *County and Hundred.* And the Bailiffes name and Office is growne into such contempt, at the least, these Bailiffes of Hundreds, that they are now but bare Messengers and Mandataries, within their liberties to serve Writs, and such base offices: their office consisting in three points onely, which see in *Cromptons Justice of Peace, fol. 49. a.* Yet is the name still in good esteeme some other way. For the chiefe Magistrates in divers Townes Corporate be called Bailiffes: as in *Ipswich, Yarmouth, Colchester,* and such like. And againe, there be certaine, to whom the Kings Castles be committed, which are called Bailiffes, as the Bailiffe of *Dover Castle.*

These ordinary Bailiffes are of two sorts: Bailiffes Errant, and Bailiffes of Franchises. Bailiffs Er-

rant (*Ballivi itinerantes*) be those, which the Sheriffe maketh, and appointeth to goe hither and thither in the County to serve writs, to summon the County, Sessions, Assises and such like. Bailiffes of Franchises (*Ballivi Franchescarum aut libertatum*) be those, that are appointed by every Lord within his liberty, to doe such offices within his Precincts, as the Bailiffe Errant doth at large in the Countie. Of these reade *S. Thomas Smith de repub. Anglo. lib. 2. cap. 16.* There be also Bailiffes of the Forest, *Mannwood, par. 1. pa. 113.* There be likewise Bailiffes of Husbandry, belonging to private men of great Substante, who seeme to be so called, because they dispose of the under Servants, every man to his labour and taske, checke them for misdoing their businesse, gather the profits to their Lord and Master, and deliver an account for the same at the yeeres end, or otherwise, as it shall be called for. The word *Baliffe*, or *Ballivum*, is by *Rebuffus* derived from (*Baal. i. dominus, quia Ballivi dominantur suis subditis, quasi eorum magistri & domini. Rebus. in constit. regias, de senten. executionis, art. 7. glos. 1.* The office or duty of a Bailiffe of a Mannor or Household (which in ancient time seemeth to have beene all one) *Fleta* well describeth, *li. 2. ca. 72. & 73.* This word

is also used in the Canon law, *ca. dilecto de sentent. excom. in sexto & ca. 1. de penis in Clement.* where the Glossographer sayth it is a French word, signifying as much as *prepositus*; and *Balis* or *Balivatus* is used among our later interpreters of the Civill and Canon Law, for *Provincia*, as *Balliva* heere in England, is used for a County or Shire.

Balkers, See *Conders*.

Ballivo amovendo, is a writ to remove a Bailife out of his office, for want of sufficient living within his Bayliwick. *Reg. or. fo. 178.*

Bane seemeth to signifie the destruction or overthrow of any thing. *Bract. 1. 2. tract. 2. ca. 1. nu. 1.* as he which is the cause of another mans drowning, is sayd there to be *La bare*, i. *Malefactor*. In that *Baeton* in the place aforesaid prefixeth a French article to this word, it should seem by his opinion that the word is French; but I finde it not in any French writer that ever I read.

Baneret (*banerettus*) in *M. Skenes* opinion, seemeth to be compounded of *baner* and *rent*: whome read more at large of this, *verbo Baneret*, de *verbo sign.* But our *M. Camden* rather draweth the word from the German *Bannerheires*, *Britan. pag. 109, in meo libro. S. Thomas Smith de republ. Angl. li. c. 18.* saith, That *Baneret* is a Knight made in the field, with the ceremony of

cutting off the point of his Standard, and making it as it were a Banner: and they beeing before Bachelors, are now of greater degree, allowed to display their armes in a banner in the kings army, as Barons doe. *M. Camden ubi sup.* hath these words of this matter: *Baneretti cum vassallorum nomen jam desierat, à baronibus secundi erant: quibus inditum nomen à vexillo. Concessum illis erat militaris virtutis ergo, quadrato vexillo (perinde ac barones) uti, unde & equites vexillarii à nonnullis vocantur, &c.* Of creating a knight baneret you may reade farther in *M. Segar. Norrey* his booke, *lib. 2. c. 10.* That they be next to Barons in dignitie, it appeareth by the statute *anno 14, R. 2. ca. 11.* and by *anno 5, R. 2. statut. 2. ca. 4.* it may be probably conjectured, that they were anciently called by summons to the court of Parliament. And *ann. 13, R. 2. stat. 2. ca. 1.* we finde, That a Baneret for praying a pardon for a murderer, contrary to that statute, is subject to all one punishment with a Baron. *Johan. Gregorius Tholofanus, li. 6. ca. 10, sui synagmatis, num. 9.* hath these words, *In Gallia sunt due species affines nobilium & feudorum, quas dicunt de benneretz & barons: bennerettus jure sue dignitatis, antequam talis dici mereatur, nobilis esse debet genere, in quarto gradu, possi-*
dens

dens in ditione decem scutarios bachalarios armorum, id est, decem vasallos, habens sufficiens patrimonium quo possit secum ducere quatuor aut quinque nobiles comites continuos, cum equitibus duodecim aut sexdecim. Fit autem Benneretus, cum princeps huiusmodi persona concedit vexilli ius, & ex vexillo peditum in acie, vel extra, die solenni, sacris peractis, adimit acumina. Vocant la queve de pennon, fitque labarum, i. equitum vexillum, vocant cornette eumque equitem facit, si jam non est. Quod si ditior his fiat benneretus, et habet unam benneretam, aut sex equites bachalarios, qui possideant singuli in censum sexcentas libras ex ejus ditione seu feudo, tunc possunt ex licentia principis, baronis nomen sibi adscribere.

Bans (*bannus* vel *bannum*) significeth a publique notice given of any thing. The word is ordinary among the Feudists, and grown from them to other uses: as to that which we here in England call a proclamation, whereby any thing is publicquely commanded or forbidden. *Vincetium de Franchis. descif.* 521, & 360. *Hotomax* verbo *bannus*, in verbis feudalibus, saith, that there is both *bannus* and *bannum*; and that they signifie two divers things. His words are these: *Bannus* sive *bannu* duo significat: *Edictum*, qua die vasalli equis armisq; instructi, ad comitatum adesse debent: & *sanctionem*, hoc est,

mulctam edicto non parentis: which hee confirmeth by divers authorities. This word *bans* we use here in England, especially in the publishing of matrimonial contracts in the Church, before marriage, to the end that if any man can say against the intencion of the parties, either in respect of kindred or otherwise, they may take their exception in time. And in the Canon law, *Banna sunt proclamationes sponsi et sponse in ecclesiis fieri solite*, ca. 27. extra de sponsal. et ca. ult. qui matrimonium accus. pos. & ca. ult. de clan. despons. Yet our word (*Banning*) seemeth to come thence, being nothing but an exclamation of another. Onely *Bracton* once maketh mention of *Bannus Regis*, for a proclamation, or silence made by the Crier, before the congress of the Champions in a combat, *Lib. 3, tract. 2, cap. 21*.

Bank (*banus*) commeth of the French *Banque*, i. *mensa*. In our Common law it is most usually taken for a seat or bench of judgement: as *bank le Roy*, the kings bench, *bank de Common plees*, the Bench of Common plees, or the common Bench, *Kitchin fol. 102*. called also in Latine, *bancus regius* & *bancus communium placitorum*. *Crompt. juris. fo. 67 & 91*. *Curden* in his *Britannia*, pag. 112 & 113, in *meo*, calleth them also, *Bancum regium*, & *Bancum* com-

communem. See *Frank bank.*

Bankrupt (*alias bankrupt*) cometh of the French (*banque route*) and (*faire banqueroute*) with the French, is as much as *foro cedere*, *solum vetere*) with the Romanes: The composition of the French word I take to be this, (*banque*, i. *mensa*) & (*route*, i. *vestigium*) metaphorically taken from the signe left in the earth, of a table once fastned unto it, and now taken away. So that the originall seemeth to have sprung from those Romane (*mensarii*) which, as appeareth by many writers, had their (*tabernaculi* & *mensae*) in certain publique places, whereof when they were disposed to fly, and deceive men that had put them in trust with their monies, they left but the signes or carkasses behinde them. I know that others of good learning, and *M. Skene* for one, bring this (*a banco rupto*) but the French word worketh in mee this other opinion, for after their sence, the French should rather be *banque rompu*. Bankrupt with us signifieth him or his act, that having gotten other mens goods into his hands, hideth himselfe in places unknowne, or in his owne private house, nor minding to pay or restore to his creditours their duties. *anno 34 Hen. 8, cap. 4.* where the French phrase (*Faire banque route*) is translated to the word, to make Bankrupt. A

Bankrupt, *anno 1 Jacobi, ca. 15.* is thus described: All and everie such person and persons, using, or that shall use the trade of merchandise, by way of bargaining, exchange, bartery, chevissance, or otherwise in grosse, or by seeking his, her, or their trade of living, by buying and selling, and beeing a subject borne of this realme, or any the kings dominions, or Denizen, who at any time since the first day of this present parliament, or at any time hereafter, shall depart the realme, or begin to keepe his or her house or houses, or otherwise to absent him or her selfe, or take Sanctuarie, or suffer him or her selfe willingly to be arested for any debt, or other thing, not growne, or due, for money delivered, wares sould, or any other just or lawfull cause, or good consideration, or purposes, or hath or will suffer him or her selfe to be outlawed, or yeeld him or her selfe to prison, or willingly or fraudulently hath or shall procure him or her selfe to bee arested, or his or her goods, money, or chattels to be attached or sequestred, or depart from his or her dwelling house, or make or cause to bee made any fraudulent grant or conveyance of his, her, or their lands, tenements, goods, or chattels, to the intent, or whereby his, her, or their creditours, being subjects borne, as afore-

foresayd, shall or may be defeated or delayed for the recovery of their just and true debt: or being arrested for debt, shall after his or her arrest, lye in prison fixe moneths or more, upon that arrest, or any other arrest or detention in prison for debt, and lye in prison fixe moneths upon such arrest or detention, shall bee accounted and adjudged a Bankrupt to all intents and purposes,

Banishment (*exilium, abjuratio*) commeth of the French (*bannissement*) and hath a signification knowne to every man. But there be two kinds of banishments in *Englnd*: one voluntary and upon oath, whereof you may reade (*Abjuratio*:) the other upon compulsion for some offence or crime: as if a lay-man succor him that having taken Sanctuarie for an offence, obstinately refuseth to abjure the Realme, hee shall loose his life and member: if a Clerke doe so, he shall be banished *Stamf. pl. c. 117*. This punishment is also of our moderne Civilians called (*bannimentum*) which was aunciently termed (*deportatio*) if it were perpetuall, or (*religatio in insulam*), if for a time, *Vincentius de Franchis. Petrus de Belluga in suo speculo, fol. 125. num. 4.*

Barbaries (*Oxyantha*) is a thornie shrub knowne to most

men to beare a berry or fruit of a sharp taste. These berries (as also the leaves of the said tree) be medicinal, as *Gerard* in his *Herball* sheweth, *lib. 3. cap. 21*. You find them mentioned among Drugges to bee garbled, *Anno 1. Jacob. cap. 19.*

Bard, alias Beard. See *Clack*.

Bargaine and Sale, as it seemeth by *West. part. 1. symb. lib. 2. sect. 436*. is properly a contract made of mannors, lands, tenements, hereditaments, and other things, transferring the property thereof from the bargainer to the bargaineer. But the Author of the new termes of Lawe addeth, that it ought to be for money: saying farther, that this is a good contract for land, &c. and that Fee-simple passeth thereby, though it be not said in the deed (To have and to hold the land to him and to his heires,) and though there bee no liverie and seisin made by the seller, so it be by deed indented, sealed, and enrolled, either in the Countie where the land lyeth, or within one of the Kings Courts of Records at Westminster, within fixe moneths after the date of the Deed indented, *anno 27. H. 8. cap. 16.*

Barkarie (*Barkaria*) is a heath house. New booke of Entries, *titulo Affise corp. polit. 2*. Some call it a Tan-house.

Baron (*Baro*) is a French word, and hath divers significations here in *England*. First, it is taken for a degree of Nobilitie next unto a Vicount, *Bracton lib. 1. cap. 8. num. 4.* where he sayth, they be called *Barones, quasi robur belli*. And in this signification it is borrowed from other Nations, with whom *Baronie* be as much as *Provincie*, *Petrus Belluga in speculo princip. fol. 119.* So *Barones* be such, as have the government of Provinces, as their Fee holden of the King: some having greater, some lesser authoritie within their territories, as appeareth by *Vincentius de Franchis*, in divers of his disceisions, and others. Yet it may probably be thought, that of old times here in *England* all they were called Barons that had such Seigniories, as we now call Court-barons, as they be at this day called Seigneurs in *France*, that have any such Mannor or Lordship. Yea, I have heard by men very learned in our Antiquities, that neere after the Conquest, all such came to the Parliament, and sat as Nobles in the upper-house. But when by experience it appeared, that the Parliament was too much pestered with such multitudes: it grew to a custome, that none should come but such, as the King, for their extraordinary wisdom or quality, thought good to call by writ,

which writ ranne (*hac vice tantum.*) After that againe men seeing this estate of Nobilitie to be but casuall, and to depend meere-ly upon the Princes pleasure, they sought a more certaine hold, and obtained of the King, letters patents of this dignitie to them and their heires male. And these were called Barons by letters patents or by creation: whose posteritie, be now by inheritance and true descent of Nobilitie, those Barons that bee called Lords of the Parliament: of which kind the King may create more at his pleasure. It is thought neverthelesse, that there are yet Barons by writ, as well as Barons by letters patents, and that they may be discerned by their titles: because the Barons by writ are those, that to the title of Lord have their owne surnames annexed, as *Crompton, North, Norice*, &c. whereas the Barons by letters patents, are named by their Baronies. These Barons which were first by writ, may now justly also bee called Barons by prescription, for that they have continued Barons in themselves and their auncestors time, beyond the memory of man. The originall of Barons by writ *Master Camden* in his *Britannia*, pag. 109. in meo, referreth to *Henry* the third: Barons by letters patents or creation (as I have heard among

our Antiquaries) were first created about the dayes of *Henry* the sixth: the manner of whose creation reade in *Master Stowes Annals*, pag. 1121. Of all these you may also reade *Master Ferris* glory of Generositie, p. 125. & 126. And see *M. Skene de ver. signif. verb. Baro.* with *Sir Thomas Smith*, lib. 1. de repub. Anglor. cap. 17. who saith, that none in England is created Baron, except he can dispend a thousand pound by yeare, or a thousand markes at the least. To these former *Master Seager* (by office) *Norrey*, lib. 4. cap. 13. of *Honour civill and militarie*, addeth a third kind of Baron, calling them Barons by tenure, and those be the Bishops of the land: all which, by vertue of Baronries annexed to their Bishopricks, have alwaies had place in the upper house of Parliament, and are termed by the name of Lords Spirituall.

Baron in the next signification is an Officer: as Barons of the Exchequer be to the King: of which the principall is called Lord chiefe Baron (*capitalis Baro*) and the three other (for so many there be) are his Assistants in causes of Justice, betweene the King and his subjects, touching causes appertaining to the Exchequer.

The Lord chiefe Baron at this day, is the chiefe Judge of the

Court, and in matter of Law, Information, and Plea, answereth the Barre, and giveth order for judgement thereupon. He alone in the Terme time doth sit upon *Nisi prius*, that come out of the Kings Remembrancers office, or out of the office of the Clerke of the Pleas, which cannot be dispatched in the mornings for want of time. He taketh recognisances for the Kings debts, for appearances, and observing of orders. He taketh the presentation of all the officers in Court under himselfe, and of the Major of *London*, and seeth the Kings Remembrancer to give them their oaths. He taketh the declaration of certaine receivers accounts of the lands of the late augmentation, made before him by the Auditors of the Shires. He giveth the two parcell makers places by vertue of his office.

The second Baron in the absence of the Lord chiefe Baron, answereth the Barre in matters aforesaid: he also taketh recognisances for the Kings debts, appearances, and observing of orders. He giveth yearely the oath to the late Major and Escheatour of *London* for the true account of the profits of his office. He taketh a declaration of certaine receivers accounts. He also examineth the letters and summes of such Sheriffes forraine ac-

counts, as also the accounts of Escheatours and Collectours of Subsidies and Fifteenes, as are brought unto him by the Auditors of the Court.

The third Baron in the absence of the other two, answereth the barre in matters aforesaid, he also taketh recognisances, as aforesaid. He giveth yearly the oath of the late Major and Gawger of London for his true accounting. He also taketh a declaration of certaine receivers accounts: and examineth the letters, and sums of such of the former accountants, as are brought unto him.

The fourth Baron, is alwayes a Coursetour of the court, and hath beene chosen of some one of the clerks in the remembrancers offices, or of the clerke of the Pipes office. He at the dayes of prefixion, taketh oath of all high Sheriffs and their under Sheriffes, and of all Escheatours, Bailiffes, & other accountants, for their true accounting. He taketh the oath of all Collectours, Controllers, Surveyours and Seachers of the Custom houses, that they have made true entrances in their bookes. He appo- seth all Sheriffes upon their Summons of the Pipe in open Court. He informeth the rest of the Barons, of the course of the Court in any matter that concerneth the Kings Prerogative. He likewise, as the other Barons, taketh the

declaration of certaine receivers accounts: and examineth the letters and sums of such of the former accountants, as are brought unto him.

These Barons of the Exchequer, are ancient officers: for I find them named, *Westm. 2. cap. 11. anno 13. Ed. 1.* and they be called Barons, because Barons of the realme were wont to be employed in that office, *Fleta li. 2. ca. 24. S. Thomas Smith* saith of them, that their office is to looke to the accounts of the Prince: and to that end, they have Auditors under them: as also to decide all causes, appertaining to the Kings profits, comming into the Exchequer by any meanes. This is in part also proved by the statute, *anno 20. Ed. 3. ca. 2. & anno 27. ejusd. stat. 2. ca. 18. & anno 5. R. 2. stat. 1. ca. 9. & 12. & anno 14. ejusd. ca. 11.* And hereupon they be of late, men learned in the common law of the realme: whereas in ancient times they were others: *viz. majores & discretiores in regno, sive de clero essent, sive de curia.* *Okam* in his lucubrations *de fisci regii ratione.* *Horn* in his *mirror* of Justices saith, that Barons were wont to be two, and they Knights, *ca. De la place del Eschequer.*

Then be there in this signification, Barons of the Cinque Ports, *anno 31. Ed. 3. stat. 2. ca. 2.*

& anno 33. H. 8. cap. 10. which are two of every of the seven towns, *Hastings, Wincheſſey, Rye, Ramme, Hirbe, Dover, and Sandwich*, that have places in the lower house of Parliament, *Crompton's jurisd. fo. 28.* Baron in the third ſignification, is uſed for the husband in relation to his wife : which is ſo ordinary in all our law writers, that write in French, as it were ſuperfluous to confirme it by any one.

Baronet. I read this word, *an. 13. R. 2. ſtat. 2. ca. 1.* But I hold it falſly printed for *Baneret*, or elſe to ſignifie all one with it.

Baronye (*baronia, baronagium*) is the fee of a Baron. In which account are not onely the fees of Temporall Barons, but of Biſhops alſo : who have two reſpects : One, as they are Spirituall men, without poſſeſſions, as was the Tribe of *Levie* among the Iſraelites, being ſuſtained by the onely Firſt fruits, and Tenth of the other Tribes, *Joſh. cap. 13. verſ. 14.* The other reſpect they have, groweth from the bountie of our Engliſh Kings, whereby they have Baronies at the leaſt, and are thereby Barons or Lords of the Parliament. This Baronie (as *Bracton* ſaith, *li. 2. ca. 34.*) is a right indiviſible: and therefore if an Inheritance be to be divided among Co-parteners : Though ſome capitall meſſuages may be

divided : yet, *ſi capita le meſſuagium ſit caput Comitatus, vel caput Baronie*, he ſaith they may not be parcelled : The reaſon is, *ne ſic caput per plures particulas dividatur, & plura jura comitatum & baroniarum deveniant ad nibilum : per quod deficiat Regnum, quod ex Comitibus & Baronibus dicitur eſſe conſtitutum.*

Barre (*barra*) commeth of the French (*barre*) or *barriere* (i. *repagulum, obex, veſtis.*) It is uſed in our common law, for a peremptory exception againſt a Demand or plaint: and is by the Author of the termes of Law, defined to be a Plee brought by the Defendant in an Action, that deſtroyeth the Action of the Plaintiffe for ever. It is divided into a Barre to common intent, and a Barre ſpeciall. A Barre to a common intendment, is an ordinary or generall Barre, that ordinarily diſableth the Declaration or Plee of the Plaintiffe. A Barre ſpeciall, is that which is more than ordinary, and falleth out in the caſe in hand, or queſtion, upon ſome ſpeciall circumſtance of the faſt, *Plowden, caſu Colbirſt. fol. 26. a. b.* For example, an Executor being ſued for his Teſtators debt, pleadeth, that hee had no goods left in his hands, at the day when the writ was purchaſed or taken out againſt him. This is a good barre to common intendment, or (*prima*

in facie.) But yet the case may so fall out, that more goods might come to his hands; sithence that time: which if the Plaintiffe can shew by way of replication, then except hee have a more especiall plee or barre to alledge, he is to be condemned in the action. See also *Plowden* in the case afore named, fo. 28. a. b. and *Broke, titulo. Barre. nu. 101.* and *Kitchin, fo. 215.* Barre also in the same signification, is divided into barre materiall, and barre at large, *Kitchin, fo. 68.* A barre materiall (as it seemeth) may otherwise be called a barre speciall: as when one in the stop of the Plaintiffes Action, pleadeth some particular matter, as a descent from him that was the undoubted owner, a Feoffment made by the Ancestor of the Plaintiffe, or such like. A bar at large is, when the tenant or defendand by way of exception, doth not traverse the Plaintiffes title by pleading *not guilty*, nor confesse and avoid it, but onely maketh to himselfe a title in his barre. As if in an Assise of *novel disseisin*, the tenant plead a Feoffment of a stranger unto him, and gives but a colour onely to the Plaintiffe. Of this there is an apt example to be found. 5. H. 7. fol. 29.

Barre, is also in regard of the effect, divided into *barre perpetuall* and *barre pro tempore*. *Perpetu-*

all is that, which overthroweth the action for ever. *Barre pro tempore* is that, which is good for the present, and may faile hereafter: looke an example or two in *Broke titu. Barre. nu. 23.* where he saith, that to plead (*pleni administravit*) is good, untill it may appeare, that more goods come to the Executors hands afterward, which also holdeth for an heire, that in an action of his Ancesters debt pleadeth (*rien per descent*.) This word is also used for a materiall *bar*: as the place where Sergeants or Councillers stand to plead causes in Court, or Prisoners to answer to their Indictments. Of which our common Lawyers, that be licensed to plead, in other countreies called (*licentia ti*) are termed *Baristers*, anno 24. H. 8. cap. 24.

Barrator (*barellator*) commeth from the French (*barat. i. astutia*) and is neere the French it selfe in signification. For (*barateur*) in that tongue betokeneth a deceiver: and a barator in our common law, is a common wrangler, that setteth men at ods, and is himselfe never quiet, but at brawle with one or other. To this effect you may read *M. Lamberds Eirenarcha. pa. 342.* who saith likewise, that *barretor* (for so he writeth it) may seeme to come from the Latine (*baratro*) or (*balatro*) that is, a vile knave or unthrif, and (by a metaphor)

taphor) a spot in a Commonwealth. See the statute of *Champerly*, anno 33. Ed. 1. stat. 2. cap. unico, and *West. 1. ca. 32. an. 3. Ed. 1. M. Skene de verb. signif. verbo, barratrie*, saith that Barrators be Symonists called of the Italian word (*barrataria*) signifying corruption or bribery in a Judge giving a false sentence for money: whom you may read more at large: as also *Horrensus Cavalcanus*, in his tractat, *de brachio regio. parte 5. nu. 66.* whose words are: *Barataria verò dicitur, quando Judex aliquid petit indebitum, ut justiciam faciat.* Who also, *nu. 195. part. 5.* saith thus: *barraterij appellantur, qui pretorium nimis frequentant.* And in another place of the same worke. *Baratria dicitur, quia sit quoddam barratrum. i. commutatio pecunie cum justitia, &c.* See also *Aegidius Bossius in practica criminali, titulo de officialibus corrupt.* &c. *nu. 2. & 6.* *Baratariam committunt, Judices, qui justiciam auro vendunt.* *Paris Puteola. de syndicatū, verbo Barataria. pa. 217.*

Barre fee, is a fee of twentie pence, that every prisoner acquitted off felony paieth to the Goaler. *Crompt. Justice of peace, fo. 158. b.*

Barrell, is a measure of wine, oyle, &c. containing the eighth part of a tunne, the fourth of a pipe, and the second of a hoghead, that is, 231 gallons and a halfe, *anno 1. R. 3. cap. 13.* *Bur*

this vessell seemeth not to containe any certaine quantitie, but differeth according to the liquor: for a barrell of beere containeth 36. gallons, the Kilderkin 18. and the Firkin 9. a barrell of ale 32. gallons, the kilderkin 16. and the firkin, 8. gallons, *an. 23. H. 8. c. 4.*

Barriers, commeth of the French (*barres*) and signifieth with us that which the French men call (*jeu de barres. i. palestram*) a martiall sport or exercise of men armed and fighting together with short swords, within certain limits or lists, wherby they are severed from the beholders.

Barter, may seeme to come of the French (*barater. i. circumvenire.*) It signifieth in our statutes, exchange of wares with wares. *ann. 1. R. 3. ca. 9.* and so bartry the substantive, *anno 13. Eliz. a. cap. 7.* The reason may be, because they that chop and change in this manner, doe what they can for the most part, one to over-reach the other. See *barratour*.

Base estate, is in true French (*bas estat.*) It signifieth in our common law, that estate which base tenants have in their lands. Base tenants be they (as *M. Lambert* saith in his explica. of Saxon words, *verb. Paganus*) which do to their Lords villanous service. The author of the termes of law in his Tractat of old termes, saith that to hold in fee base, is to hold at the

the will of the Lord, *Kitchin, fol. 41.* seemeth to make base tenure and francke to be contraries: where it appeareth, that hee putteth Copy-holders in the number of base tenants. And out of these, I thinke, that it may be probably conjectured, that every base tenant holdeth at the will of the Lord, but yet, that there is a difference betweene a base estate, and villenage; which *Fitzb. in his nat. br. f. 12. B.C.* seemeth to confound. For the above named Author of the termes of law saith in the place before cited, that to hold in pure villenage, is to doe all that the Lord will command him. So that if a Copie-holder have but base estate, he not holding by the performance of every commandement of his Lord, cannot be said to hold in villenage. Whether it may be said, that Copy-holders, be by custome and continuance of time, growne out of that extreame servitude, wherein they were first created, I leave to others of better judgement: but *Fitz. loco citato* saith, tenure by Copie is a terme but lately invented.

Base Court, is any Court that is not of record, as the Court baron. Of this read *Kitchin, f. 95, 96, &c.*

Base fee. See *Base estate.*

Baselard (*bastardus*) in the statute. *an. 12. R. 2. ca. 6.* signifieth a weapon, which *M. Speight* in his

exposition upon *Chaucer*, calleth *pugionem vel sciam.*

B. stard (*bastardus*.) See *Bastardy.* And see *Skene de verbo. signif. verbo Bastardus.*

Bastardy (*bastardia*) cometh of the French (*bastard. i. nobilis*) *Cassanens de conjunct. Burg. pag. 1116.* saith (*bastard*) and (*filius naturalis*) be all one. *Bastardy* in our common law, signifieth a defect of birth, objected to one begotten out of wedlock. *Bract. l. 5. cap. 19. per totum.* How *bastardy* is to be proved, or to be inquired into, if it be pleaded, see *Rast. l. booke of Entries, tit. Bastardy, fol. 104. Kitchin, fol. 64.* maketh mention of *Bastardy speciall*, and *Bastardy generall*. The difference of which is, that *Bastardy generall*, is a Certificate from the Bishop of the Diocesse to the Kings Justices, after just enquiry made, that the party inquired of, is a Bastard or not a Bastard, upon some question of inheritance. *Bastardy speciall*, is a suite commenced in the Kings Court, against him that calleth another Bastard: so termed (as it seemeth) because *Bastardy* is the principall and especiall case in triall, and no inheritance contended for. And by this it appeareth, that in both these significations, *Bastardy* is rather taken for an examination or triall, whether a mans birth be defective or illegitimate, then

it selfe. See *Broke. titulo. Bastardy.*
n. 29. and Doctor Ridlies booke.
pa. 203, 204.

Baston, is in French a staffe,
 club, or coulestaffe. It signifieth
 in the statutes of our Realme, one
 of the Warden of the Fleet his
 servants or officers, that attend-
 eth the Kings court with a red
 staffe, for the taking of such to
 ward, as bee committed by the
 court. So it is used, *anno 1. R. 2.*
ca. 12. anno 5. Eliz. ca. 23.

Batable ground, seemeth to be
 the ground in question hereto-
 fore, whether it belonged to Eng-
 land or Scotland, lying betweene
 both the Kingdomes. *anno 23. H.*
8. cap. 16. as if wee should say,
 debatable ground. For by that
 name *M. Skene de verbo. sign. verbo*
Plegius, calleth ground, that is in
 controversie betweene two.

Battell (duellum) commeth of
 the French (*bataille. i. bellum, pre-*
lium) and signifieth in our com-
 mon law, a triall by combate.
 The manner whereof because it
 is long, and full of ceremonies, I
 doe for the better and more full
 understanding of it, referre you
 to *Glawile, lib. 2. cap. 3, 4, 5.* to
Bracton, lib. 3. tract. 2. cap. 21.
fol. 140. to *Britton, cap. 22.* and to
S. Thomas Smith de repub. Anglo-
rum, li. 2. cap. 7. & lib. 3. cap. 3. See
Combat.

Battery commeth of the French
(batre. i. verberare, cudere, percu-

tere) and signifieth in our com-
 mon law, a violent striking of a-
 ny man, which the Civilians call
injuriarum personalem, quia persona
infitur per verbera, cruciatum, &c.
Wesemb. p. rat. π. de Injur. & fam.
libel.

Bauels (baubellz) is an old
 word, signifying Jewels. *Ro. Ho-*
veden parte poster. suorum annal.
fo. 449. b.

Bearding, alias, Barding of wool.
 See *Clack.*

Beavers, signifie all one with
 Maintainers, *anno 20. Edw. 3.*
cap. 5.

Beonage (Beonagium) signifi-
 eth money paid for the mainte-
 nance of Becons.

Bewpleder (pulchre plicitando)
 is made of 2. French words (*beau.*
1. decorus, formosus, pulcher) and
(pleder. i. disputare, & causam age-
re.) It signifieth in our common
 law, a writ upon the statute of
Marlbridge or Marlboron, made
 the 52. yeare of *H. 3. ca. 11.* where-
 by it is provided, that neither in
 the Circuit of Justices, nor in
 Counties, Hundreds, or Courts-
 baron, any fines shall be taken of
 any man for faire pleading, that
 is, for not pleading fairely or
 aptly to the purpose. Upon
 which Statute, this writ was or-
 dained against those, that violate
 the law herein. See *Fitzh. nat. br.*
fol. 270. A. B. C. whose definition
 is to this effect: the writ upon
 K 1 the

the statute of *Mawlebridge* for not faire pleading, 1, eth where the Shyreve or other Bailiffe in his Court, will take fine of the partie plaintiffe or defendant, for that he pleadeth not fairely, &c.

Bedell (*Bedellus*) commeth of the French (*bedeau*. i. *apparitor*) and it signifieth with us, nothing else but a messenger or servitour belonging to a Court, as a Courtbaron or Leet, *Kitebin*, fol. 46. where you may see his oath: or to the Court of the Forest, *Manwood parte pri.* of his Forest lawes. pag. 221. in these words: A Bedell is an officer or servant of the Forest, that doth make all maner of garnishments of the Courts of the Forest, and also all maner of Proclamations, as well within the Courts of the Forest as without: and also doth execute all the processe of the Forest. He is like to a Bailiffe errant of a Shyreve in a Countie, &c.

Benefice (*Beneficium*) is generally taken for all ecclesiasticall livings, be they dignities or other, as *anno 13. R. 2. stat. 2. ca. 2.* where benefices are divided into elective, and benefices of gift. So is it used in the Canon lawe also. *Duarenus de beneficiis*, lib. 2. cap. 3.

Beneficio primo ecclesiastico habendo, is a writ directed from the King to the Chancellor, to bestow the benefice that first shall

fall in the Kings gift, above or under such a value, upon this or that man, *Regist. orig. fol. 307. b.*

Benevolence (*Benevolentia*) is used both in the Chronicles and Statutes of this Realme, for a voluntarie gratuitie given by the subjects, to the King. Looke *Stowes annals*, pag. 701. That it hath beene something anciently accustomed, it appeareth by him and by the Statute *anno 1. Ric. 3. cap. 2.* where it is called a new imposition: and in that respect reprehended by that tyrant in his predecessors: whether justly or not I cannot say, nor mind to dispute. *Fut Stow*, pag. 791. saith, that the invention grewe from *Edward* the fourths dayes. You may find it also, *anno 11. H. 7. ca. 10.* to have beene yeilded to that worthy Prince, in regard of his great expences in warres and otherwise. This is also mentioned and excepted out of the pardon, *anno 1. Ed. 6. cap. 15.* It is in other Nations called (*subsidiu charitativum*) given sometime to Lords of the see, by their tenents, sometime to Bishops by their Clergie. *Matthew de Afflictis, de scis.* 136. *Cassan. de consuet. Burg.* pag. 134. 136. *Baldus consilio.* 120. vol. 6. pag. 230. Of this *Menochius* maketh mention, lib. 2. centur. 2. cap. 178, & 179. shewing, when it is lawfull for a Prelate *charitativum subsidium à sibi subditis exigere, & quanta*

quanta debeat esse ejus summa, setting downe eight just causes of this exaction.

Besaille (*proavum*) is borrowed of the French (*bisayen*. i. *le pere de mon pere grand*) the father of my grandfather. In the common law it signifieth a writ, that lieth where the great grand-father was seised in his demesne as of fee, of any lands or tenements in fee-simple, the day that hee dyed, and after his death a stranger abateth, or en. reth the same day upon him, and keepeth out his heire, &c. The forme and farther use of this writ, reade in *Fitz. nat. br. fol. 221. D. E. F. &c.*

Beastes of chase (*Fera campestris*) be five of the Forest, chase, or parke: that is, the Bucke, the Doe, the Foxe, the Martron, and the Roe, *Manwood part. prim. of his Forest lawes, pag. 342. & part. 2. cap. 4. num. 2.*

Beasts of the forest (*fera sylvestres*) are the Hart, the Hind, the Hare, the Boare, and the Wolfe, *Manwood parte 2. of his Forest lawes, cap. 4. num. 1.*

Beasts and Fowles of Warren, are the Hare, Conie, Fesant, and the Partridge, *Manwood parte 2. cap. 4. num. 3.*

Bestaile, commeth of the French (*bestial*. i. *pecus*) it seemeth with us to signifie all kind of cattell taken for the Kings

provision; *anno 4. Ed. 3. cap. 3.* And bestiall is generally used for all kind of cattell, *anno 1. Jacobi cap. 33.*

Bidding of the Beades, was a charge or warning, that the parish Priest gave to his parishioners, at certaine especiall times, to say so many *Pater nosters*, &c. upon their beades, *anno 27. H. 8. cap. 26.*

Bigamie (*bigamia*) signifieth a double marriage. It is used in the common law, for an impediment that hindreth a man to be a Clerke, by reason that he hath beene twice married. For upon those words of *S. Paul* to *Timothee* the first *cap. 3. vers. 2.* (*Oportet ergo Episcopum irreprehensibilem esse, & unius uxoris virum*;) the Canonists have founded their doctrine, that he that hath beene twice married, may not bee a Clerke. And also him that hath married a widow, they by interpretation, take to have beene twice married. And both these they doe not onely exclude from holy orders, but also deny them all priviledges that belong unto Clerkes. But the author of the new termes of Law well saith, that this Law is abolished by *anno 1. Ed. 6. cap. 12.* And to that may be added the statute, *anno 18. Elizab. cap. 7.* which alloweth to all men that can read as Clerkes, though not within

orders, the benefit of Clergie in case of felonie not especially excepted by some other statute.

Bilanciis deferendis, is a writ directed to a corporation, for the carying of weights, to such or such a haven, there to weigh the wools that such a man is licenced to transport, *Reg. orig. f. 270. a.*

Bilawes, are orders made in court Leets or court Barons by common assent, for the good of those that make them, farther then the publike law doth bind. *Coke vol. 6. fo. 63 a. Kitchin fo. 45. & 79.* These in Scotland are called (*burlaw*) or (*birlawe*.) *Skene de verbo. sign. verbo Burlawe*: where he sayth thus: Lawes of *burlawe*, are made and determined, by consent of neighbours elected and chosen by common consent, in the Courts called *birlawe* courts. In the which cognition is taken of complaints betwixt neighbour and neighbour: which men so chosen, are Judges and Arbitrators to the effect aforesaid, and are called *birlawe* men. For (*bawr*) or (*bawrfman*) in Dutch is (*rusticus*) and so (*birlaw*) or (*burlaw*) *leges rusticorum*. Hitherto *M. Skene*.

Bilinguis, though it signifie in the generalitie a doubletongued man; yet in our common law, it is used for that Jury, that passeth betweene an English man and an alien. Whereof part must be En-

glishmen, and part strangers, *anno 28. Ed. 3. ca. 13.*

Bille (*billa*) is diversly used among our common lawyers. First, (as *West* saith *pa. 1. symb. li. 2. sect. 146.*) it is all one with an obligation, saving that when it is in English it is commonly called a bill, and when it is in latin an obligation. But I heare other good lawyers say, that a bill, though it be obligatorie, yet is without condition or forfeiture for non payment: & that the obligation hath both. Bill secondly, is a declaration in writing, that expresseth either the grieve and the wrong that the complainant hath suffered, by the partie complained of, or els some fault, that the partie complained of, hath committed against some law or statute of the Common-wealth. This bill is sometime offered up to Justices errants in the generall assises: sometime, and most of all, to the Lord Chancellor of England, especially for unconscionable wrongs done, sometime to others having jurisdiction, accordingly as the law, whereupon they are grounded, doth direct. It containeth the fact complained of, the damages thereby suffered, and petition of proceffe against the defendant for redresse. *West. parte 2. Symbol. titulo supplications, sect. 52.* whom you may reade at large touching this matter.

Billa vera, is (as it were) a word of art in our common law. For the grand enquest empaneled and sworne before the Justices in Eyre, &c. indorsing a bill, whereby any crime punishable in that Court, is presented unto them, with these two words; doth signifie thereby, that the presenter hath furnished his presentment or denunciation with probable evidence, and worthy of farther consideration. And thereupon, the partie presented by the same bill, is said to stand indicted of the crime, and so tyed to make answer unto it, either by confessing, or traversing the indictment. And if the crime touch the life of the person indicted, it is yet referred to another enquest, called the enquest of life and death: who if they finde him guiltie, then hee standeth convicted of the crime, and is by the Judge to be condemned to death. See *Ignoramus*, see *Indictment*.

Billets of gold, commeth of the French (*billos*, i. *massa auri*. anno 27. Ed. 3. stat. 2. ca. 14.

Byrny peper, anno 1. Jaco. ca. 19.

Blacke maile, is halfe English, halfe French. For in french (*maille*) signifieth a small piece of money, which we call a halfe peny. It signifieth, in the Counties of Comberland, Northumberland, Westmerland, and the Bishopricke of Duresme, a certain rate of money,

corne, cattell, or other consideration, paid unto some inhabiting upon or neare the borders, being men of name and power, allied with certaine, knowne to be great robbers and spoile-takers within the said Counties, to the end thereby to beby them freed, protected, and kept in safetie, from the danger of such as doe usually robbe and steale in those parts, an. 43. Eliz. ca. 13.

Blacke rodde, is the huissier belonging to the order of the Garter, so called of his blacke rodde that he carrieth in his hand. Hee is of the Kings chamber, and also huissier of the parliament.

Blankes, commeth of the french (*blanc*, i. *candidus*, *albus*.) It signifieth a kind of coine that was coined in the parts of France by King H. the fifth, that were subject to England: the value whereof was eight pence, *Stowes annals*, pag. 586. These were forbidden to be current within this Realme. an. 2. H. 6. cap. 9. The reason why they were called blankes may be because at the time these were coined in France, there was also a piece of gold coyned, which was called a (*Salus*) of the value of twenty-two shillings, from which this silver was in name distinguished by the colour.

Bloudy band. See *Backberend*.

Blomary, is one of the forges

belonging to an iron mill (which also seemeth otherwise to be termed a *Finary*. The use whereof, if you will understand, you must know, that first there is a furnace, wherein the mine-stones are melted and cast into a raw iron, fashioned into long wedges three square, that be called *sows*. Then be there two forges like unto Smithes forges, but much bigger, the one whereof is called the *blomary*, or (as it seemeth) the *finary*, into the which being maintained with a charcole fire blowne with bellows, made to goe by water, are cast the said sowes of raw iron; and melted againe, and by a workman called the *finary man*, are wound and wrought round, and afterward beaten by a hammer into little wedges about a yard long, which are called *bloomes*. Then is there another forge called the *Hammer*, into which these *bloomes* are cast, and by a workman (called the *Hammer man*) againe chafed and made soft in a charcole fire, blowne likewise with bellows caused to goe by the water: and after carried by the said *Hammerman*, and put under the great hammer also driven by the water. And so the said *bloomes* are drawne, fashioned, and made into such barres of iron of divers sorts and formes, as wee see

commonly sold. Of these you may reade in the statute, *anno 27. Elizab. ca. 19. See Baye.*

Bloudwit (blodwita) is compounded of two Saxon words (*blout. i. sanguis*) and (*wit*) for the which we have the word (*wite*) still in the West parts of *England* signifying a charging of one with a fault, or an upbraiding. And *Speight* in his expositions upon *Chamfer* saith, that (to *twit*) is as much as to blame. (To *twit*) in some other places of this land signifieth as much as (to hitte in the teeth) or to upbraide. This *bloudwit* is a word used in charters of liberties anciently graunted; and signifieth an amercement for shedding of blood. So that whosoever had it given him in his Charter, had the penaltie due for shedding of blood graunted unto him. *Rastell* in his exposition of words. *Skene de verbo. signif.* writeth it (*bludweir*) and saith that (*weir*) in English is *injuria vel misericordis*: and that (*bludweir*) is an amercement or (unlawe) as the *Scottishmen* call it, for wrong or injury, as *bloudshed* is. For he that is *infest* with (*bludweir*) hath free libertie to take all amercements of Courts for effusion of blood. *Fleta* saith, *quod significat quietantiam misericordis pro effusione sanguinis. li. 1. ca. 47.*

Bockland, See *Charterland*. See

Copie-bould and *Free-bould*.

Bonis arrestandis, is a writ, for the which See *Arrestandis bonis*.

Bonis non amovendis, is a writ to the Shyreeves of London, &c. to charge them, that one condemned by judgement in an action, and prosecuting a writ of error, be not suffered to remove his goods, untill the error be tried. *Register orig. fo. 131. b.*

Borow (*burgus vel burgum*) may either come from the French (*burg. i. pagus*) or from the Saxon (*borhoe. i. vadium, pignus.*) It signifieth here in England a corporate Towne that is not a Citie. *anno 2. Ed. 3. ca. 3.* namely, all such as send Burgesses to the Parliament: the number whereof you may see in *M. Cramptons jurist. fol. 24.* It may probably be thought, that it was anciently taken for those companies consisting of ten families, which were combined to be one another's pledge or borhoe: See *Beaumont, li. 3. tractat. 2. ca. 10.* See *Headborow*, and *Borowhead*, and *M. Lambard* in the duties of Constables, pag. 8. *Lynnwood* upon the provincially (*ut singula de censibus*) speake to this effect: *Aliqui interpretantur burgum esse castrum, vel locum ubi sunt crebra castra, vel dicitur burgus, ubi sunt per limites habitacula plura constituta.*) But then setting downe his owne opinion, he defineth it thus: *Burgus*

dici potest villa quacunq; alia a civitate, in qua est universitas approbata. And that he proveth out of the 11. book of *Justinians Codex. tit. de fund. rei private. 65. & l. 6. ejus tituli*, where *burgus* is termed *corpus*. Some derive it from the Greeke (*πυργός. i. turris*) see *M. Skene de verbo. sign. verbo. Borghe*. The late author *M. Verstegan*, in his restitution of decayed intelligences, saith, that (*burg*) or (*burgh*) whereof we say yet (*Borough*) or (*Bourrow*) metaphorically signifieth a Towne, having a wall, or some kind of closure about it, also a Castle. All places that in old time had among our ancestors the name of *Borough*, were places one way or other fenced or fortified.

Bordlands, signifie the demesnes, that Lords keepe in their hands, to the maintenance of their board or table. *Bract. li. 4. tractat. 3. ca. 5. in. 5.* in old

Borowhead alias *Headborow*, (*capitis pignus*) by *M. Lambard's* opinion in his treatise of Constables, is made up of these two words, (*borhoe. i. pledge*) and (*head*) and signifieth a head or chiefe pledge. And in explication of this, and other Saxon words of this nature, hee maketh an excellent rehearsal of some ancient customes of England, during the reigne of the Saxons, which you may read. This borowhead (*in short*)

was the head or chiefe man of the Decurie or Borhoe, that there he speaketh of, chosen by the rest to speake, and to doe in the name of the rest, those things that concerned them. See *Borow-bolders*.

Borow-bolders, alias *Bursholders*, be quasi *borhoe ealders*, signifying the same officers that be called *borow-heads*. (*Lamb.* in the duties of *Constables*.). *Bracton* calleth them (*Borgbie Aldere*) li. 3. tractat. 2. ca. 10.

Borow english, is a customarie descent of lands or tenements, whereby in all places where this custome holdeth, lands and tenements descend to the yongest sonne: or if the owner have no issue, to his yongest brother: as in *Edmunst. Kitchin. fo. 102*. And the reason of this custome, as (*Litleton* saith, is, for that the yongest is presumed in law, to be least able to shift for himselfe.

Borow goods devisable, I finde these words in the statute of *Alton Burnel. anno 11. Ed. 1. statuto unico*. and dare not confidently set downe the true meaning of them. But as before the statute of 32. & 34. H. 8. no lands were devisable at the common law, but in ancient baronies: so perhaps, at the making of the foresaid statute of *Alton burnel*, it was doubtfull, whether goods were devisable but in ancient

borowes. For it seemeth by the writ *de rationabili parte bonorum*, that aunciently the goods of a man were partible betweene his wife and children.

Bote, signifieth compensation. *Lamb.* explication of *Saxon words*. Thence cometh (*manbote*, alias *minbote*) that is compensation or amends for a man slaine, which is bound to another. For farther understanding whereof, it is to be seene in K. *Inas* lawes, set out by M. *Lamberd. ca. 96*. what rate was ordeined for the expiation of this offence: See *Hedgebote*, *Plowbote*, *Horsebote*, and reade M. *Skene de verbo. signif. verbo. Bote*.

Botiler of the King (*pincerna regis*) anno 43. Ed. 3. ca. 3. is an officer that provideth the Kings wines: who (as *Fleta li. 2. ca. 21*. saith) may by vertue of his office out of every Shippe loaden with sale wines, *unum dolium eligere in prora navis ad opus regis*, & aliud in puppi, & pro qualibet pecia reddere tantum 20. solid. mercatori. Si autem plura inde habere voluerit benelicebit: dum tamen precium fide dignorum iudicio pro rege apponatur.

Don-bearer, is an under-officer of the Forest (as M. *Crompton* in his *jurisdict. fo. 201*. setteth down, sworne to the true performance of his office in these words: I will true man be to the Master forester

ster of this forest, and to his lieve-tenant : and in the absence of them, I shall truly oversee, and true inquisition make, as well of swornemen as unsworne in every bayliwick, both in the North bayle, and South bayle of this Forest, and of all manner of trespasses done, either to vert or venison, I shall truly endeavour my selfe to attach, or cause them to be attached, in the next court Attachment, there to be presented, without any concealment had to my knowledge : So helpe mee God, &c.

Bracton (otherwise called *Henry of Bracton*) was a famous lawyer of this land, renowned for his knowledge both in the common and civill lawes, as appeareth by his booke every where extant. Hee lived in the dayes of Henry the third. *Stamf. praeo. f. 5. b.* and as some say, Lord chiefe Justice of England.

Bread of treate, and *bread of coket*, *anno 51. H. 3. statuto 1.* of bread and ale.

Bred, signifieth broad. This word *Bracton* useth, *li. 3. tract. 2. ca. 15. au. 7.* proverbially thus to lange and to bred : the meaning whereof you may there finde, word for word it is, as wee now speake, two long and two broad : or two in length, or two in breadth.

Brevibus, & rotulis liberandis, is

a writ or mandat to a Shyreewe to deliver unto the new Shyreewe chosē in his roome, the countrie with the appertinances, together with the rols, briefes, remembrances, and all other things belonging to that office, *Register orig. fo. 295. a.*

Bribours, commeth of the French (*bribur. i. mendicus.*) It seemeth to signifie with us, one that pilfereth other mens goods, *anno 28. Ed. 2. stat. 1. ca. unico.*

Briefe (*breve*) commeth from the French (*breif. ou breif. i. brevis*) and in our common law signifieth a writ, whereby a man is summoned to answer to any action : or (more largely) any precept of the King in writing, issuing out of any Court, whereby hte commandeth any thing to be done, for the furtherance of justice or good order. The word is used in the civill law, sometime in the singular number, and masculine gender, as *Lust. Cod. de conveniendis fisci debitoribus. l. 10. tit. 2.* you have these words : *Inter chartulas confiscati brevis, quidam adseveratur inventus, qui nomina continet debitorum.* Where it is used for a short note. Againe, I find a title restored by *Gothofred*, in the first booke of the Code. *de quadri-mensuris brevibus. Quadrimestri autem breves erant, qui de singulis indictionū pensionibus, quarto quoq; mense solutis, conficiebantur.*

Also *Lampridius in Alexandro* hath it singularly thus: *notarium, qui falsum causæ breuem in consilio imperatorio retulisset, &c.* And in the *Authenticke, Novel. 105. ca. 2.* you have this word (*breviatores. i. breuium proscriptores.*) *Breues autem, brevia, brevicula, sunt chartæ sine libelli breues,* as *Gothofred,* there noteth. Where he noteth likewise out of *Zonaras in (Arthagini: Concilio,* that this is a greek word, thus: *βρεβιον ἢ ἐμπλουτὶς λέγεται ὁ σύντομος καὶ ῥαπὶδ.* See *Skene de verbo. signif. verbo Breue.* Of these briefes see also *Bracton l. 5. tract. 5. ca. 17. nu. 2. Breue quidem cum sit formatum ad similitudinem regule iuris, quia breviter & paucis verbis intentionem proferentis exponit & explanat, sicut regala iuris rem que est breviter enarrat. Non tamen ita breve esse debet, quin rationem & vim intentionis contineat, &c.*

Brigandine (lorica) is the French (*brigandine*) that is a coate of maile. This is used, *anno 4. & 5. Pb. & Mar. ca. 2.*

Brigote, significat quietantiam reparationis pontium. Fleta l. 1. ca. 47. It is compounded of (*brig*) a bridge and (*bote*) which is a yeelding of amends, or supplying a defect. See (*Bote*) and *Bruckbote.*

Britton, was a famous Lawyer, that lived in the dayes of *K. Edward* the first, at whose commandement, and by whose authoritie

he writ a learned book of the law of this realme. The tenure whereof runneth in the Kings name, as if it had beene penned by himselfe, answerably to the Institutions, which *Justinian* assumeth to himselfe, though composed by others. *Stamf. prero. f. 6. & 21. S. Edward Coke* saith, that this *Britton* writ his booke in the fiftie yeare of the said Kings raigne. *li. 4. fo. 126. a. & li. 6. fo. 67. a. M. Guin* in the Preface to his reading, mentioneth, that this *John Britton* was Bishop of *Hereford.*

Broke, commonly called *S. Robert Broke,* was a great Lawyer and Lord chiefe Justice of the common plees in *Queene Maries* time. *Cromptions* Justice of peace, *f. 22. b.* hee made an abridgement of the whole law, a booke of high account.

Broker (brocarium) seemeth to come from the French (*broieur. i. tritor*) that is a grinder or breaker into small pieces. Because he that is of that trade, to deale in matters of money and merchandise betweene English men and Strangers, doth draw the bargain to particulars, and the parties to conclusion, not forgetting to grinde out something to his owne profit. These men be called *broggers, anno 10. R. 2. ca. 1.* It may not improbably be said, that this word cometh from (*brocarder*)

cardor. i. cavallari) because these kind of men, by their deceitfull speeches, and abusing their true trade, many times inveigle others. In *Scotland* they be called (*broccarii*) and in their owne idioime, blockers or brockers, that is, mediators or intercessors in any transaction, paction, or contract: as in buying or selling, or in contracting mariage. *Skene de verbo. sign. verbo. broccarii.*

He that will know what these brokers were wont, and ought to be, let him reade the statute *an. i. Jacobi. ca. 21.* These in the civill law are called (*proxeneti*) as also of some (*solicitatores & mediatores. tit. de proxeneticiis, in Digestis.*) This kind of dealer is also of the Romanes called (*pararius*) *Seneca L. 2. de benef. ca. 22. Calvus Rhodoginus, libro 6. ca. 32. & li. 3. cap. 15.*

Broderers (cometh of the French *brodeur*) and that cometh of (*bordure. i. fimbria, limbus*) the edge or hemme of a garment. And that because it is distinguished from the rest, most commonly, by some conceited or costly worke; he that worketh it, is called (*brodeur*) in French, and broderer or embroderer with us.

Brodebalpeny, cometh of the three Saxon words (*bret, or bred*) i. a board: and (*halve*) that is, for this or that cause (*cujus rei gratia*) as the Latinists speake, and

(*penning*) it signifieth a tolle or custome for setting up of tables or boords in a Faire or Market. From the which, they that are freed by the Kings Charter, had this word mentioned in their letters patents. In somuch, as at this day the freedome it selfe (for shortnesse of speech) is called by the name of *brodebalpenie*.

Broggers. See *Brokers.*

Bruckbote (*Pontagium*) is compounded of two German words (*bruck. i. pons,*) and (*bote. i. compensatio.*) It signifieth with us, a tribute, contribution, or ayde toward the mending, or reedifying of Bridges; whereof many are freed by the Kings Charter. And thereupon the word is used for the very libertie or exemption from this tribute. See *Pontage* and *Brigbote*.

Bull (*bullā*) seemeth to come from the Greeke, (*βυλλή*) i. *consilium*) as *Polydorus Virgilius* saith, *de inventio. rerum, lib. 8. cap. 2.* It signifieth the letters, by the Canonists called Apostolicke, strengthened with a leaden seale, and containing in them the decrees or commandements of the Pope or Bishop of Rome. The word is used many times in our Statutes: as *anno 28. H. 8. cap. 16. & anno 1. & 2. Ph. & Ma. ca. 8.*

Bullion, cometh of the French (*billon*) that is, the place where gold is tried. It signifieth with

us, gold or silver in the masse or biller, *anno 9. Ed. 3. stat. 2. cap. 2.* and sometime the Kings exchange on place, whether such gold in the lumpe is brought to be tryed or exchanged, *anno 27. Ed. 3. stat. 2. cap. 14. & anno 4. H. 4. cap. 10.* See *Skene de verbo. signif. verbo Bullion.*

Burgh, commeth of (*burg. i. castellum*) and (*bote. i. compensatio*) and signifieth a tribute or contribution toward the building or repairing of castles, or walls of defence, or toward the building of a borow or city. Fro this divers had exemption by the ancient Charters of the Saxon Kings. Whereupon it is taken ordinarily for the exemption or libertie it selfe. *Rastals expos. of words. Fleta* hath these words of it: *Significat quietantiam reparationis murorum civitatis vel burgi. li. 1. c. 47.*

Burgh English. See *Borow English.*

Burgage (*burgagium*) is a tenure proper to cities and townes, whereby men of cities or borowes, hold their lands or tenements of the King, or other Lord for a certaine yearely rent. *Old Tenures.* It is a kinde of socage: *Swinburn. parte 3. §. 3. nu. 6.*

Burglarie (*burglaria*) is compounded of two French words, (*bourg. i. pagus, villa*) and (*larcin, i. furtum*), or of (*bourg & la-*

ron) *Coke lib. 4. fol. 39. b.* It is according to the acceptance of our common law, thus defined: *Burglarie* is a felonious entring into another mans dwelling house, wherein some person is, or into a Church in the night time, to the end to commit some felonie therein: as to kill some man, or to steale somewhat thence, or to doe some other felonious act there, albeit he execute not the same. If the intent, or fact of this effendour, be to steale, this is like robberie, if to murder, it differeth not much from murder, and so of other felonies; *West. parte 2. Symbol. titulo. Indictmenis. Sect. 36.* *Burglarie* in the naturall signification of the word, is nothing, but the robbing of a house: but as it is (*vox artis*) our common Lawyers restraine it to robbing a house by night, or breaking in with an intent to rob, or to doe some other felonie. The like offence committed by day, they call house-robbing, by a peculiar name. How many wayes *burglarie* may bee committed, see *Exemptions. Justice of peace, fol. 28. b. & fol. 29, 30.*

Butlerage of wines, signifieth that imposition of sale wine brought into the land, which the Kings Butler, by vertue of his office, may take of every ship, *anno 1. H. 8. cap. 5.* For the

the which see more in *Boryler*.

C

Cablishe (*cablicia*) among the writers of the Forest lawes, signifieth brush wood, *Mannwood parte pag. 84. Cromptons Jurisd. fol. 165.*

Calamus, is a cane, reed, or quill, the divers kinds whereof, you have set downe in *Gerards Herball, lib. 1. cap. 24.* This is comprized among merchandize and drugs to bee garbled, in the statute *anno 1. Jacobi, cap. 19.*

Calendrin of Worsseds. anno 5. H. 8. cap. 4. & anno 35. ejusdem. cap. 5.

Cantred, is as much in *Wales*, as an hundred in *England*. For *Cantre* in the British tongue signifieth *captum*. This word is used *anno 28. H. 8. cap. 3.*

Cape, is a writ judiciall touching plea of land or tenements, so termed, (as most writs be) of that word in it selfe, which carrieth the especiallest intention or end thereof. And this writ is divided in (*Cape magnum*, & *Cape parvum*;) both which (as is before said in Attachment) take hold of things immoveable, and seeme to differ betweene themselves in these points. First, because (*cape magnum*) of the (*grand Cape*) lyeth before ap-

pearance, and (*Cape parvum*) afterward. Secondly, the (*Cape magnum*) summoneth the tenent to answer to the default, and over to the demandant: (*Cape parvum*) summoneth the tenent to answer to the default onely: and therefore is called (*Cape parvum*) or in French english (*petit Cape.*) *Old nat. br. fol. 161, 162.* Yet *Ingham* saith, that it is called (*petit Cape*) not because it is of small force, but that it consisteth of few words. (*Cape magnum*) in the *old. nat. br.* is thus defined. This writ is a judiciall, and lyeth where a man hath brought a (*Principe quod reddat*) of a thing that toucheth plea of land, and the tenent make default at the day to him given in the writ originall: then this writ shall goe for the King, to take the land into the Kings hands: and if hee come not at the day given him by the (*grand Cape*) he hath lost his land, &c. A president and forme of this writ you may see in the Register judiciall, *fol. 1. b.* It seemeth after a sort to containe in it the effect (*missio nis in possessionem ex prima & secunda decreto*) among the Civilians. For as the first decree seisseth the thing, and the second giveth it from him, that the second time defaulteth in his appearance: so this (*Cape*) both seisseth the land, and also assigneth to the partie a

farther day of appearance, at which if hee come not in, the land is forfeited. Yet is there difference betweene these two courses of the civill and common law: first, for that (*missio in possessionem*) toucheth both mooveable and immoveable goods, whereas the (*Cape*) is extended onely to immoveable: secondly, that the partie being satisfied of his demaund, the *remanet* is restored to him that defaulted: but by the (*Cape*) all is seised without restitution: thirdly, (*missio in possess.*) is to the use of the party agent, the (*Cape*) is to the use of the King. Of this writ, and the explication of the true force and effect thereof, reade *Bracton lib. 5. tract. 3. cap. 1. num. 4, 5, & 6.* See *Cape ad valentiam.*

Cape parvam in the *Old. nat. br. fol. 162.* is thus defined: This writ lyeth, in case where the tenant is sommoned in ples of land, and commeth at the summons, and his appearance is of record, and after hee maketh default at the day that is given to him: then shall goe this writ for the King, &c. Of this likewise you have the forme in the Register judicall, *fol. 2. a.* Why it is called *Cape parvum*, see in *Cape magnum.* Of both these write reade *Fleta lib. 6. cap. 44. §. Magnum & seqq.*

Cape ad valentiam, is a species of *Cape magnum*, so called of the end whereunto it tendeth. In the *Old nat. br. fo. 161, 162.* it is thus defined or described: This writ lyeth, where any impleaded of certaine lands, and I vouch to warrant another, against whom the summons *ad warrantizandum*, hath been awarded, and the Shyreewe commeth not at the day given: then if the demandant recover against mee, I shall have this writ against the vouchee, and shall recover so much in value of the land of the vouchee, if hee have so much: and if hee have not so much, then I shall have execution of such lands and tenements, as descend unto him in fee-simple: or if he purchase afterward, I shall have against him a resumption: and if hee can nothing say, I shall recover the value. And note yee, that this writ lyeth before apparence. Thus farre goeth the booke. Of these, and the divers uses of them, see the Table of the Register judicall, *verbo. Cape.*

Capias, is a writ of two sorts, one before judgement called (*Capias ad respondendum*) in an action personall, if the Shyreewe upon the first writ of distresse returne (*nihil habet in baliva nostra:*) and the other is a writ of execution after judgement, being also of

of divers kinds. (*viz. Capias ad satisfaciendum, Capias pro fine, Capias utlagatum, Capias utlagatum, & inquiras de bonis & catallis.*)

Capias ad satisfaciendum, is a writ of execution after judgement, lying where a man recovereth in an action personall, as debt, or damages, or detinue in the Kings court: and he against whom the debt is recovered, and hath no lands nor tenements, nor sufficient goods, whereof the debt may be levied. For in this case, hee that recovereth, shall have this writ to the Sheriffe commanding him that hee take the body of him, against whom the debt is recovered: and hee shall be put in prison, untill satisfaction be made unto him that recovered.

Capias pro fine, is where one being by judgement fined unto the King, upon some offence committed against a statute, doth not discharge it according to the judgement. For by this is his body taken, and committed to prison, untill hee content the King for his fine, *Coke. lib. 3. fo. 12. a.*

Capias utlagatum, is a word of execution, or after judgement, which lyeth against him that is outlawed upon any suit: by the which the Sheriffe upon the receite thereof, apprehendeth the party outlawed, for not appea-

ring upon the (*exegend*) and keepeth him in safe custodie untill the day of returne assigned in the writ: and then presenteth him unto the court, there farther to be ordered for his contempt.

Capias utlagatum, & inquiras de bonis & catallis, is a writ all one with the former, but that it giveth a farther power to the Shyreve, over and beside the apprehension of the body, to inquire of his goods, and cattels. The forme of all these writs see in the *old nat. br. fo. 154.* and see the *Termes of law, verbo Procer.* Lastly, you may find great variety of this kind, in the table of the Register judiciale, *verbo Capias.*

Capias in Withernamium de averiis, is a writ lying for cattell in *Withernam.* Register orig. f. 82. & 83. see *Withernam.*

Capias in Withernamium de bermine, is a writ that lyeth for a servant in *Withernam.* Register orig. f. 79. & 80. see *Withernam.*

Capias conductos ad proficiscendum, is a writ that lieth for the taking up of such, as having received prest money to serve the King, flinke away, and come not in at their time assigned, Register orig. fo. 191.

Captaine, alias capitayns (captaneus) commeth of the French (*capitaine*) and signifieth with us, him that leadeth, or hath charge of

of a companie of Souldiers: and is either generall, as he that hath the governance of the whole host: or speciall, as he that leadeth one onely band. The word (*capitanei*) in other nations signifieth more generally those, that are in latine called (*principes*) or (*proceres*) because, as *Hottoman* saith in *verbis feudilibus: tanquam caput reliquo corpori, sic his reliquis civibus presunt*. He divideth them into two sorts: and to use his words, *alii sunt capetanei regni: quo verbo Duces, Comites, Marchiones intelliguntur. l. i. feud. tit. i. §. i. & ii. 7. Alii improprie, qui urbium prefecti sunt, quibus plebs ab aliquo superiorum gubernanda committitur: qui & vassallos regit, & majores appellantur. l. feud. tit. i. §. i. & ii. 7. & tit. 17.* So we have captaines of Castles here in England, and other places, as of the Isles of Gearsay and Gearnsy, of the Isle of Weighr, &c.

Capite, is a tenure, which holdeth immediately of the King, as of his crowne, be it by knights service or socage: *Broke tit. tenures. 46. 94. Dyer, fo. 123. m. 38. & fo. 363. m. 18.* and not as of any honour, castle, or manor: and therefore it is otherwise called a tenure, that holdeth meerely of the King, because as the crowne is a corporation, and seigneurie in grosse (as the common lawyers terme it) so the King that

possesseth the crowne, is in account of law, perpetually King, and never in his minoritie, nor never dieth: no more then (*populus*) doth, whose authoritie he beareth. See *Fitzb. nat. br. f. 5. F.* Note by the way, that a man may hold of the King, and not (*in Capite*) that is, not immediately of the crowne in grosse, but by meanes of some Honour, castle, or manor belonging to the Crowne, whereof I hold my land. Whereof *Kitchin* saith well, that a man may hold of the King by Knights service, and yet not in *capite*, because he holdeth happily of some honour by Knights service, which is in the Kings hands (as by descent from his auncestors) and not immediately of the King, as of his crowne, *fo. 129.* with whom agreeth *Fitzb. nat. br. f. 5. K.* whose words are to this effect: So that it plainly appeareth, that lands which be held of the King, as of an honour, castle, or manor, are not held in *capite* of the King: because that a writ of right, in that case, shall be directed to the bayliffe of the honour, castle, or manor, &c. but when the lands be held of the King, as of his crowne, then they be not held of honour, castle, or manor, but meerly of the King, as King, and of the Kings Crowne, as of a seigneurie of it selfe in grosse, and the chiefe above all other seigneuries,

ries, &c. And this tenure in *capite* is otherwise called tenure holding of the person of the King. *Dyer fo. 44. nu. 37.* Another of the new termes. *ver. Tenure in capite.* Broke *titulo. Tenures nu. 65. 99.* And yet *M. Kitchin fo. 208.* saith, that a man may hold of the person of the King, and not in *capite*. His example is this: If the King purchase a manor that *I. S.* holdeth, the tenement shall hold as he held before, and shall not render livery or *primeir seisin*, nor hold in *capite*: And if the King grant that manor to *W. N.* in fee, excepting the services of *I. S.* then *I. S.* holdeth of the King, as of the person of the King, and yet holdeth not in *capite*, but as he held before. So that by this Booke, tenure holding of the person of the King, and tenure in *capite*, are two diverse tenures. To take away this difficultie, I thinke *M. Kitchin* is in that place to be taken, as if hee said, not in *capite* by Knights service, but by socage, following the usuall speech: because most commonly where wee talke of tenure in *capite*, wee meane tenure by Knights service.

Carno, *Crompton jurisd. fol. 191.* is an immunitie.

Carke, seemeth to be a quantitie of Wooll, whereof thirtie make a Sarpler, *anno 27. H. 6. ca. 2.* See *Sarpler*.

Carrack, *alias Carrick*, seemeth to be a Ship of burthen, so called of this Italian (*carrico*) or (*carco*) a burthen or charge, or of the Spanish (*cargo*) you have this word, *anno 2. R. 2. ca. 4. & anno 1. Jaco. ca. 33.*

Carroway seeds, *alias Carroway seeds*, (*semen cari vel carei*) is a Seed springing of the herbe so called, of whose operation you may reade in *Gerards Herball, li. 2. cap. 396.* It is reckoned among the Merchandise, that ought to be garbled, *anno 1. Jaco. ca. 19.*

Carue of land (*carucata terra*) cometh of the French (*charue. i. aratrum*) and with us is a certaine quantitie of land, by the which the Subjects have sometime been taxed: whereupon the tribute so levied, is called (*Carvage, Carvadium*) *Bracton li. 2. ca. 16. nu. 8.* It is all one with that, which the same Author, *lib. 2. cap. 17.* calleth (*carucatam terra*.) For *Lisleton ca. Tenure in socage*, sayth, that (*hec soca soca, idem est quod caruca*) is one hoke, or one plow land. Yet one place I finde in *Stowes annals*, that maketh mee doubt, *pag. 271.* where he hath these words: The same time King *Henry* tooke carvage, that is to say, two markes of silver of every Knights fee, toward the marriage of his suster *Isabell* to the Emperour: where carvage cannot be taken for a Plow land, except

there were some other farther division, whereby to raise of every plow land so much : and so consequently of every Knights fee: that is, of every 680. acres, two markes of silver. *Rastall* in his *Exposition of words*, saith, that carvage is to be quite, if the Lord the King shall tax all the land by carnes : that is, a priviledge, whereby a man is exempted from carvage. *Skene de verb. signif. ver.* *Carnata terra*, deriveth it from the French (*charon*. i. a plough) and saith, that it containes as great a portion of land, as may be tilled and laboured in a yeare and day with one plough : which also is called (*hids*) or (*bida terre*) a word used in the old Britaine lawes. Master *Lambard* among his precedents, in the end of his *Etrenarcha*, translateth (*carnatum terre*) a plough land.

Carvage (*carnagium*) see *Carus*.

Cassia Fistula, is a tree that beareth certaine blacke, round, and long cods, wherein is contained a pulpe, soft and pleasant sweet, serving for many uses in Physick. This tree with her vertnes you may find described in *Gerards Herball*, lib. 3. cap. 77. The fruit is mentioned in the statute, anno 1. *Jacob*. cap. 19. among drugges and spices, that bee to be garbled.

Cassia Lignea, is a sweet wood not unlike to Cynamon, and sometime used in stead of Cynamon. Whereof you may read in *Gerards Herball*, lib. 1. cap. 141. This is called *Cassia lignum*, in the Statute anno 1. *Jacob*. cap. 19. and is comprised among merchandize that are to be garbled.

Castellain (*castellanus*) is a keeper or a Captaine, sometime called a Constable of a Castle, *Bracton lib. 5. tractat. 2. cap. 16.* & lib. 2. cap. 32. num. 2. In like manner is it used, anno 3. *Ed. 1. cap. 7.* In the bookes (*de feudis*) you shall finde (*guastaldus*) to be almost of the same signification, but something more large : because it is also extended to those that have the custody of the Kings mansion houses, called of the *Lumbards* (*curtes*) in England (Courts) though they be not places of defence or strength. *M. Manwood*, part. 1. of his Forest lawes, pag. 113. saith, that there is an Officer of the Forest called *Castellanus*.

Castelward (*castelgardum*, vel *wardum castri*) is an imposition laid upon such of the Kings subjects, as dwell within a certaine compasse of any Castle, toward the maintenance of such, as doe watch and ward the Castle. *Magna charta*, cap. 20. & anno 32. *H. 8. cap. 48.* It is used sometime, for the very circuit it selfe, which

is inhabited by such as are subject to this service, as in *Stowes annals*, pag. 632.

Casu consimili, is a writ of entry, granted where the tenant by courtesie, or tenant for terme of life, or for the life of another, doth alien in fee, or in taile, or for terme of anothers life. And it hath the name of this, for that the Clerkes of the Chauncerie did, by their common consent, frame it to the likenesse of the writ called (*In casu proviso*) according to their authoritie given them by the Statute, *Westm. 2. cap. 24.* which, as often as there chanceth any new case in Chauncerie, something like to a former case, and yet not especially fitted by any writ, licenceth them to lay their heads together, and to frame a new forme answerable to the new case, and as like some former case as they may. And this writ is graunted to him in the reversion, against the partie to whom the said tenant so alienateth to his prejudice, and in the life time of the said tenant. The forme and effect whereof, reade more at large in *Fitzh. nat. br. fol. 206.*

Casu proviso, is a writ of entry, given by the Statute of *Gloucester*, cap. 7. in case where a tenant in dower alieneth in fee or for terme of life, or in taile,

and lyeth for him in reversion against the alienee. Whereof reade *Fitzh. nat. br. more at large, fol. 205.*

Catalls (*catalla*) aliàs *chatels*, commeth of the *Normans*. For in the eighty-seventh Chapter of the grand customary you shall find, that all moveable goods with them, are called chatels: the contrary whereof is (*fif*) *ibid.* which wee doe call fee. But as it is used in our common law, it comprehendeth all goods moveable and immoveable, but such as are in the nature of freehold, or parcell thereof, as may be gathered out of *Stamf. pre-ro. cap. 16.* and *an. Eliz. 1. cap. 2.* Howbeit, *Kitchin* in the chapter *catalla. fo. 32.* saith, that ready money is not accounted any goods or chatels, nor hawkes, nor hounds. The reason why hawkes and hounds be not, he giveth, because they be (*sepe nature*) why money is not, though hee set not downe the cause: yet it may be gathered to be, for that money of it selfe, is not of worth, but as by consent of men, for their easier trafficke, or permutation of things necessary for common life, it is reckoned a thing rather consisting in imagination, then in deed. *Catalls* be either personall or reall. Personall may be so called in two respects: one, because they be-

long immediately to the person of a man, as a bow, horse, &c. the other, for that being any way with-held injuriously from us, wee have no meanes to recover them, but by personall action. *Chatels* reall be such, as either appertaine not immediately to the person, but to some other thing, by way of dependencie: as a boxe with charters of land, the body of a ward, apples upon a tree, or a tree it selfe growing on the ground. *Cromptons Justice of peace* fo. 33. B. or else such as are necessary, issuing out of some immoveable thing to a person: as a lease or rent for tearme of yeares. Also to hold at will, is a chatell reall. *New tearmes, verbo Chatell.* The Civilians comprehend these things, as also lands of what kind or hold soever, under *bona; bona autem dividuntur in mobilia & immobilia: mobilia verò in ea quæ se movent vel ab aliis moventur. v. legem.* 49. & l. 208. π. de verb. significat. & interpretat ibidem. *Bracton* also c. 3. l. 3. nu. 3. & 4. seemeth to be of the same judgement.

Catalin capti nominis distinctio, is a writ that lyeth within a Borow, or within a house, for rent going out of the same, and warranteth a man to take the dores, windowes, or gares, by way of distresse, for the rent. *Old nat. br.* fol. 66.

Catalin reddendis, is a writ, which lyeth where goods being delivered to any man to keepe untill a certaine day, and be not upon demand delivered at the day. And it may be otherwise called a writ of detinew. See more of it in the *Register orig.* fo. 139. and in the *Old nat. br.* fo. 63. This is answerable to *actio depositi*, in the civill law.

Catchpalle, though it now be used as a word of contempt, yet in ancient times, it seemeth to have beene used without reproach, for such as wee now call Sergeants of the Mace, or any other that use to arrest men upon any cause, *anno 25. Ed. 3. stat.* 4. c. 2.

Cathedrall. See Church.

Casa matrimonii prælatus, is a writ which lyeth in case where a woman giveth lands to a man in fee simple, to the intent he shall marry her, and refuseth so to doe in reasonable time, being required thereunto by the woman. The forme, and farther use hereof, learne in the *Register orig.* fol. 233. and in *Fitzb. nat. br.* fo. 205.

Causam nobis significet, is a writ which lyeth to a Maior of a Towne or Citie, &c. that formerly by the Kings writ being commanded to give seisin unto the Kings grantee of any land or tenements, doth delay so to doe,

doe, willing him to shew cause, why hee so delayeth the performance of his charge. *Coke l. 4. case communalty des Sadlers. fo. 35. b.*

Cautious admittenda, is a writ that lyeth against the Bishop, holding an excommunicate person in prison for his contempt, notwithstanding that he offereth sufficient caution or assurance to obey the commandements & orders of holy church from thenceforth: The forme and farther effect whereof, take out of the *Regist. orig. pa. 66.* and *Fitzh. nat. br. fo. 63.*

Century (*centuria*.) See *Hundred*.
Cepi corpus, is a retorne made by the Sheriffe, that upō an (exigend) hee hath taken the bodie of the partie, *Fitzh. nat. br. fo. 26.*

Certiorari, is a writ issuing out of the Chancerie, to an inferior Court, to call up the records of a cause therein depending, that conscionable Justice therein may be ministred, upon complaint made by bill, that the partie which seeketh the said writ, hath received hard dealing in the said court. *Termes of the Law.* See the divers formes and uses of this, in *Fitzh. nat. br. fol. 242.* as also the Register, both originall and judiciall in the tables, *verbo. Certiorari.* *Crompton* in his *Justice of peace. f. 117.* saith, that this writ is either returnable in the Kings Bench, and then hath these

words (*nobis mittatis*;) or in the Chauncerie, and then hath (*in cancellariis nostris*) or in the common bench, and then hath (*Iusticiariis nostris de banco.*) The word (*certiorare*) is used divers times in the digest of the civill law: but our later *Criticks* thinke it so barbarous, that they suspect it rather to be foisted in by *Tribonism*, then to be originally used by those men, of whose workes the said digest is compiled. *Præter in suo lexico.*

Certificat (*certificatorium*) is used for a writing made in any Court, to give notice to another Court of any thing done therein. As for example, a certificat of the cause of attainr, is a transcript made briefly and in few words, by the Clerke of the Crowne, Clerke of the Peace, or Clerke of Assise, to the court of the Kings Bench, containing the tenure and effect of every endictment, outlawrie, or conviction, and Clerke attained, made or pronounced in any other Court. *an. 34. H. 8. c. 14.* Of this see more in *Certificat d'evesque. Broke fol. 119.*

Certificatio of assise of novel disseisin, &c. (*Certificatio assise nova disseisine, &c.*) is a writ granted for the re-examining or review of a matter passed by assise before any Justices, and is called (*certificatio nova disseisine*) *Old nat. br. fo. 181.* Of this see also the

Register original. fo. 200. and the new book of entries, *verb. Certificat of assise.* This word hath use, where a man appearing by his Bailiffe to an assise brought by another, hath lost the day: and having something more to plead for himselfe, as a deed of release, &c. which the Bailiffe did not, or might not plead for him, desireth a farther examination of the cause, either before the same Justices, or others: and obtaineth Letters patents unto them to that effect. (The forme of these Letters patents, you may see in *Fitzb. nat. br. fo. 181.*) and that done, bringeth a writ to the Sheriffe, to call both the partie for whom the assise passed, and the Jurie that was empaneled upon the same, before the said Justices at a certaine day and place. And it is called a certificate, because in it there is mention made to the Sheriffe, that upon the parties complaint of the defective examination, or doubts yet remaining upon the assise passed, the King hath directed his Letters patents to the Justices, for the better certifying of themselves, whether all points of the said assise were duly examined, yea or not. See farther *Old nat. br.* and *Fitzb. ubi supra.* Of this also you may reade *Bracton li. 4. cap. 19. num. 4. in fine. & 5, 6.* where he discusseth

the reason of this point very learnedly; and lastly, *Horn* in his *Mirror of Justices, li. 3. ca. finali, §. en eyde des memoires, &c.*

Certificando de recognitione Stapule, is a writ directed to the Major of the Staple, &c. commanding him to certifie the Chauncelor of a statute of the staple, taken before him betweene such and such, in case where the partie himselfe detaineth it, and refuseth to bring it in, *Regist. orig. fo. 152. b.* In like manner may be said of (*certificando de statuto mercatorio*) *codem. fo. 148.* and (*de certificando in cancellarium de inquisitione, de idempnitatem nominis*) *fo. 195.* and (*certificando quando recognitio,*) &c. and *certificando quid actum est de brevi super statutum mercatorium.*) *fo. 151.* and *certificando si loquela Warantie. fol. 13.*

Cessor, is hee that ceaseth or neglecteth so long to performe a dutie belonging unto him, as that by his cesse or cessing he incurreth the danger of Law, and hath, or may have the writ (*cessavit*) brought against him. *Old nat. br. fo. 136.* And note, that where it is said in divers places (the tenent cesseth) without any more words, such phrase is so to be understood, as if it were said: the tenent cesseth to doe that which hee ought, or is bound to doe by his land or tenement.

Cessavit, is a writ, that lyeth in divers cases, as appeareth by *Fitz. nat. br. fo. 208.* upon this generall ground, that he against whom it is brought, hath for two yeares foreflowne to performe such service, or to pay such rent, as he is tied unto by his tenure, and hath not upon his land or his tenement, sufficient goods or cattells to bee distreined. Consult more at large with *Fitz.* upon this *ubi supra*, with *Flota. si. 5. ca. 34. h. visa sunt*, and with the *Termes of lawe*. See *Cessavit de cantaria. Register orig. fo. 238. Cessavit de feodi firma, eodem fo. 237. Cessavit per biennium. eodem. folio etiam eodem.* See the new booke of Entries, *verbo Cessavit.*

Cestui qui vie, is in true French (*cestui a vie de qui*) i. hee for whose life any land or tenement is graunted. *Perkins graunts. 97.*

Cestui qui use (*ille cuius usui vel ad cuius usum*) is broken french, and thus may be bettered: (*Cestui al use de qui.*) It is an ordinary speech among our common lawyers, signifying him, to whose use any other man is infeoffed in any lands or tenements. See the new booke of entries. *verbo user.* and in *Replevin, fo. 508. colum. 3. & verbo Trespas, fo. 606. & fo. 123. a. b. colum. 3. nu. 7.*

Chafe waxe, is an officer in Chauncery, that fitteth the wax for the sealing of the writs,

and such other instruments as are there made to bee sent out. This officer is borrowed from the French. For there, (*calesfactores cere sunt, qui regis literis in Cancellaria ceram impriment. Corasius.*

Chafe (*chacea*) commeth of the French (*chasser. i. sectari belluas, apros, cervos.*) It signifieth two things in the common law. First, as much as (*actus*) in the civill law, that is a driving of cattell to or from any place: as to chafe a distresse to a fortlet: *Old nat. br. fo. 45.* Secondly, it is used for a receite for deere and wilde beasts, of a middle nature betweene a Forest, and a Parke: being commonly lesse then a Forest, and not endued with so many liberties, as the Courts of *attachement*, *Swaine mote*, and *Justice seate*: and yet of a larger compas, and stored with greater diversitie both of keepers and wilde beasts or game, then a parke. And *Crompton* in his booke of *Jurisdictiones, fol. 148.* saith, that a forest cannot bee in the hands of a subject, but it forthwith looseth the name, and becommeth a chafe, and yet *fo. 197.* he sayth, that a subject may bee lord and owner of a forest, which though it seeme a contrarietie, yet bee both his sayings, in some sort, true. For the King may give or alienate a forest to a subject yet so,

as when it is once in the subject, it leeseeth the true propertie of a Forest: because that the Courtes, called the Justice seat, the Swain more, and Attachment, forthwith doe vanish: none being able to make a Lord chiefe Justice in Eyre of the Forest, but the King: as M. *Manwood* well sheweth, *parte* 2. of his Forest Lawes, *cap.* 3. & 4. And yet it may be granted in so large a manner, that there may be Attachment and Swainemore, and a court equivalent to a Justice seat, as appeareth by him in the same chapter, *num.* 3. So that a Chase differeth from a Forest in this, because it may bee in the hands of a subject, which a Forest in his proper & true nature cannot: and from a Parke, in that that it is not inclosed, and hath not onely a larger compasse, and more store of game, but of Keepers also and overseers. See *Forest*.

Challenge (calumnia) commeth of the French *challenger*, i. *sibi asserere*) and is used in the common lawe for an exception taken either against persons or things: persons, as in assise to the Jurors, or any one or more of them: or in a case of felonie by the prisoner at the barre. *Smith. de rep. Anglor. lib. 2. cap. 12.* *Britton. ca. 52.* *Bracton. lib. 2. tract. 2. cap. 22.* Against things, as a declaration, *Old nat. br. fol. 76.* Challenge

made to the Jurors, is either made to the array, or to the polles. Challenge to the array is, when the whole number is excepted against, as partially empaneled: challenge to or by the polle, when some one, or more are excepted against, as not indifferent. *Termes of the Law.* Challenge to the Jurours, is also divided into Challenge principall, and Challenge *per cause*. i. upon cause or reason. Challenge principall (otherwise by *Statute. pl. cor. fol. 157. & 158.* called (peremptorie) is that, which the law alloweth without cause alledged or farther examination. *Lamberd. Eirenar. lib. 4. cap. 14.* as a prisoner at the barre, arraigned upon felonie, may peremptorily challenge to the number of 20. one after another, of the Jurie empaneled upon him, alledging no cause, but his owne dislike: and they shall bee still put off, and new taken in their places. But in case of high treason no Challenge peremptorie is allowed, *an. 33. H. 8. cap. 23.* *Fortescue* saith, that a prisoner in this case may challenge, 35. men c. 27. but that law was abridged by *anno 25. H. 8. cap. 3.* I cannot here omit to note some difference, that (in mine opinion) I observe betweene Challenge principall, and Challenge peremptorie, finding peremptorie

to be used only in matters criminal, and barely without cause alledged more then the prisoners own phantasie, *Stawf. pl. cor. fol. 124.* but principall in civil actions for the most part, and with naming of some such cause of exception, as being found true, the law alloweth without farder scanning. For example: if either partie say, that one of the Jurors is the sonne, brother, cousin, or tenant to the other, or espoused his daughter, this is exception good and strong enough (if it bee true) without farder examination of the parties credit. And how farre this challenge upon kindred reacheth, you have a notable example, in *Plowden, casu Vernon*, against *Maners*, fol. 425. Also in the plee of the death of a man, and in every action reall, as also every action personall, where the debt or dammages amount to 40. marks, it is a good challenge to any man, that he cannot dispend 40. shillings by the yeare of Free-hold, *anno, 11. H. 7. cap. 21.* and Termes of the law,, *virbo Challenge*. The ground of this challenge you may see farder in *Flota, lib. 4. cap. 8.* Challenge upon reason or cause is, when the partie doth alledge some such exception against one or more of the Jurors, as is not forthwith sufficient upon acknowledgement

of the truth thereof, but rather arbitrabl and considerable by the rest of the Jurors: as for example: if the sonne of the Juror have married or espoused the daughter of the adverse partie. Termes of the law, *ubi supra.* This challenge *per causi*, seemeth to be tearmed by *Ritchin, challenge for favour*, fol. 92. or rather Challenge for favour is said there to be one species of challenge *per cause*: where you may read what challenges be commonly accounted principall, and what not. See the new booke of Enteries, *verbo, Challenge*, and the *old. nat. br. fol. 158. & 159.* That this word (*challenge*) is long sithence lated by the word (*calumnia*) appeareth by *Bracton. lib. 3. tract. 2. cap. 18. & li. 4. tract. 3. cap. 6. & lib. 5. cap. 6.* But I doubt *Priscian* will never forgive him that first strooke this blow at him. Of *challenge* you may farder reade *Flota. lib. 1. cap. 32. §. Ad quem diem & seqq.*

Chamberdinkins, are Irish beggers, *an. 1. H. 5. cap. 8.*

Chamberer, is used for a Chamber-maid, *anno 33. H. 8. cap. 21.*

Chamberlaine (*camerarius vel camberlingus*) commeth of the French (*chambellan*) i. *cubicularium, vel praeftum cubiculi.*) It is diversly used in our Chronicles, Lawes, and Statutes: as Lord

great Chamberlaine of England, Lord Chamberlaine of the Kings house, the Kings Chamberlaine, anno 13. Ed. 1. cap. 41. anno 17. R. 2. cap. 6. to whose office it especially appertaineth to looke to the Kings chambers and wardrobe, and to governe the under ministers belonging unto the same. *Fleta lib. 2. cap. 6. & 7.* Chamberlaine of any of the Kings courts, anno 7. Ed. 6. cap. 1. Chamberlaine of the Exchequer, anno 51. H. 3. stat. 5. & anno 10. Ed. 3. cap. 11. & anno 14. ejusdem. cap. 14. & anno 26. H. 8. cap. 2. Chamberlaine of North Wales, *Stow, pag. 641.* Chamberlaine of Chester. *Cromptons jurisd. fol. 7.* This Officer is commonly the receiver of all rents and revenues belonging to that person or citie, whereunto he is Chamberlaine. *v. Fletam lib. 2. cap. 70. §. Si autem.* The Latine word seemeth to expresse the function of this officer. For (*camerarius dicitur à camera. i. testudine sive fornice:*) quia custodit pecunias que in cameris præcipuè reservantur. *O-nypbrim de interpret. vocum ecclesiasticarum.* It seemeth to be borrowed from the Feudists, who define the word (*camera*) thus: *Camera est locus in quem thesaurus recolligitur, vel conclave in quo pecunia reservatur. Bism de feudis. part. 4. nu. 7. and Peregrinus, de jure fisci. lib. 6. tit. 3. saith, that*

camerarius vel camberlingus (quem quaestorem antiqui appellarunt) in rebus fisci primum locum tenet, quia thesaurarius & custos est publicæ pecuniæ. Sane officium hoc primipilatus fuisse nonnulli senserunt. There be two officers of this name in the Kings Exchequer, who were wont to keep a controlement of the pels of receipt and exitus, and kept certaine keyes of the treasure cofers, which is not now in use. They keep the keyes of the Treasurie, where the leagues of the Kings predecessors, and divers ancient bookes doe remaine. There is mention of this officer, in the Statute, an. 34. & 35. H. 8. c. 16. There be also Under-chamberlains of the Exchequer, which see in *Under-chamberlaine.*

Champartie (cambipartita) alias champertie, seemeth to come from the French (champert. i. vectigal) and signifieth, in our common law, a maintenance of any man in his suit depending, upon condition to have part of the thing (bee it lands or goods) when it is recovered. Fitz. nat. br. fol. 171. and champertours be they; that move plees or suits, or cause to be moved, either by their owne procurement, or by other; and pursue at their proper costs, for to have part of the land in variance; or part of the gaines. anno 33. Ed. 1. stat. 2. in fine.

fine. Whereunto adde the third statute made the same yeare. This seemeth to have beene an ancient fault in our Realme. For notwithstanding these former statutes, and a forme of writ framed unto them, yet *anno 4. Ed. 3. cap. 11.* it was againe enacted, that whereas the former statute provided redresse for this in the Kings Bench onely (which in those dayes followed the Court) from thenceforth it should be lawfull for Iustices of the Common plees likewise, and Iustices of Assises in their circuits, to inquire, heare, and determine this and such like cases, as well at the suit of the King, as of the party. How farre this writ extendeth, and the divers forms thereof, applied to severall cases, See *Fitz. nat. br. fo. 171.* and the *Register orig. fol. 183.* and the new booke of Entries, *verbo. Champertie.* Every *champertie* employeth maintenance, *Cromptons juris. fo. 39.* See also his Iustice of Peace, *fol. 155. b. &c.* These with the Romans were called *redemptores litium, qui se quotidianas lites mercantur, aut qui partem litis paciscuntur l. si remunerandi. §. Maurus. n. Mandati. l. si contra. §. l. per diversas. Co. edem. 13.*

Champion (*campio*) is thus defined by *Hottoman, in verbis feudatilibus.* *Campio est certator: pro alio datus in duello: à campo displus, qui*

circus erat decertantibus definitus. In our common law, it is taken no lesse for him that trieth the combat in his owne case, then for him that fighteth in the place or quarrell of another, *Bracton, li. 3. tra. 2. ca. 21. nu. 24.* who also seemeth to use this word for such, as hold by Seargante, or some service of another: as *campiones faciunt homagium domino suo. li. 2. ca. 35.* Of this reade more in *Battell and Combat. 30.*

Chanceler (*cancellarius*) cometh of the French (*chancelier*) *Vincemius Lupanus de magistratibus Francorum* saith, that (*cancellarius*) is no latine word: howbeit, he citeth divers Latine writers that do use it. With him agreeth that excellent man *Petrus Pitheus, libro 2. adversariorum. ca. 12.* and whereas *Lupanus* would derive it from the verbe (*cancello*) *Pitheus* confesseth, hee hath good colour for his opinion, though hee thinke it not sound; and therefore rather deduceth it (*a cancellis*) (*Cancellare*) is (*litteras vel scriptum linea per medium ducta dammare*) and seemeth of it selfe likewise to be derived (*a cancellis*) which signifie all one with (*κρυπιδες*) in Greeke, which wee in our tongue call a Letis: that is, a thing made of wood or iron barres, laid crosse waies one over another, so that a man may see through them

them in and out. And it is to be thought, that Judgement seats in old time, were compassed in with those barres, being found most necessary to defend the Judges and other officers from the presse of the multitude, and yet never the more to hinder any mans view, that had a desire or cause to observe what was done. *Cancellarius* at the first by the opinion of *Lupamus*, signified the registers or actuaries in Court (*grapharios* sc. *qui conscribendis & excipiendis iudicium actis dant operam*) *Pitheus* saith, they were such as wee now call (*Secretarios*) But this name in our dayes is greatly advanced, and not only in other Kingdomes, but in ours also, is given to him that is the chiefe man for matter of Iustice (in private causes especially) next unto the Prince. For whereas all other Iustices in our Common-wealth, are tied to the law, and may not swerve from it in judgement: the Chancellor hath in this the Kings absolute power, to moderate and temper the written Law, and subjecteth himselfe onely to the Law of nature and conscience, ordering all things *juxta equum & bonum*. And therefore *Stanford* in his *Prerogative*, ca. 20. fo. 65. saith, that the Chancellor hath two powers, one absolute, the other ordinarie: mea-

ning, that though by his ordinary power in some cases, hee must observe the forme of proceeding, as other ordinary Judges: yet that in his absolute power hee is not limited by the written law, but by conscience and equitie, according to the circumstances of the matter in question. But how long hee hath had this power, some would doubt. For *Polidorus Virgilius*, lib. 9. *historie Anglica*, hath these words of *William the Conqueror*: *Instituit item Scribarum Collegium, qui diplomata scriberent, & ejus Collegii magistrum vocabat Cancellarium, qui paulatim supremus factus est Magistratus, qualis hodie habetur*. And see *Flet. lib. 2. cap. 13*. This high Officer, seemeth to be derived from *France* unto us, as many other Officers and usages be. For of this thus writeth *Boerius* in his *Tractate De auctoritat. Magni Concilii. nu. 8. Consistorio Francie post Principem Dominus Francie Cancellarius, cui velut excelsum judicii tribunal hoc in regno (sub Principe tamen nostro) moderanti, sigillumq; authenticum, quo sine publicis & patentibus regis literis nulla fides adhibetur, liberam administrationem habenti, omnes & singuli regii Justiciarii, quocunque nomine nuncupentur, ac quavis auctoritate fungantur, eo inferiores sunt. Et merito: Succedit enim in quastoris locum, &c.*

He that beareth this Magistrate, is called the Chancelor of England, *anno 7. R. 2. cap. 14.* and by the Statute *anno 5. Eliz. cap. 18.* the Lord Chancellor and Keeper have all one power. Note farther that divers inferior Officers, are called Chancelors, as Chancelor of the Exchequer, *an. 25. H. 8. cap. 16.* whose office hath been thought by many, to have been created for the qualifying of extremities in the Exchequer. He sitteth in the Court, and in the Exchequer chamber, and with the rest of the court ordereth things to the Kings best benefit: he is alwayes in commission with the Lord Treasurer for the letting of the lands that came to the crowne by the dissolution of Abbeyes: and hath by privie seale from the King, power with others to compound for forfeitures of bonds, and forfeitures upon penall statutes. He hath also much to doe in the revenue come by the dissolution and first fruits, as appeareth by the acts of uniting them to the Crowne. Chancelor of the Dutchie of Lancaster, *anno 3. Ed. 6. cap. 1. & an. 5. ejusdem. cap. 26.* whose office is principall in that Court to judge and determine all controversies betweene the King and his tenents of the Dutchie land, and otherwise to direct all the Kings affaires belonging to that

Court. Chancelor of the Order. *i. of the Garter, Stowes annals, pag. 706.* Chancelor of the Universitie, *anno 9. H. 5. cap. 8. & anno 2. H. 6. cap. 8.* Chancelor of the Court of Augmentations, *anno 27. H. 8. cap. 27. & anno 32. ejusdem, cap. 20. & anno 33. ejusd. cap. 39.* Chancelor of the first fruits, *anno 32. H. 8. cap. 45.* Chancelor of Courts, *anno 32. H. 8. cap. 28.* Chancelor of the Diocesse, *anno 32. H. 8. cap. 15.*

Chancerie (Cancellaria) is the Court of equitie and Conscience, moderating the rigour of other Courts, that are most straightly tyed to the Letter of the Law, whereof the Lord Chancelor of England is the chiefe Judge. *Cromptons jurisd. fol. 41.* or else the Lord Keeper of the great Seale, since the statute 5. *Eliz. cap. 18.* It taketh the name from the Chancelor, as *M. Cambrden.* noteth in his *Britannia. pag. 114. in mco.* The Officers belonging to this court, are (as is abovesaid) the Lord Chancelor or Keeper of the broad seale, twelve Masters of the Chancerie, whereof the Master of the Rolls is one and the chiefe, the sixe Clerks, the Examiners, a Sergeant at Armes, the Marshall, and Crier of the court, the clerks of the courts, otherwise called Courseters, the Clerkes of the Pettie bagge, the Clerke of the Crowne, the

clerk of the hanapar, the prototary or register, the controller of the hanaper, the clerke of appeales, the sealer, the chafe waxe, the clerke of the faculties, the clerk of the patents, clerk of the starre chamber, clerk of presentations, clerke of dismissions, clerke of licences to alienate, clerkes of the enrolements, clerke of the protections, clerke of the court of wards, clerke of the subpenaes, which see described in their places.

Chapell (*capella*) commeth of the French (*chapelle*. i. *edicula*) and is of two sorts, either adjoyning to a Church, as a parcell of the same, which men of worth do build, *ut ibidem familiaria sepulchra sibi constituent*, to the use of the Romanes, l. 5. c. 11. de religio: or else separate from the Mother Church, where the Parish is wide, and is commonly called a Chappell of ease: because it is builded for the ease of one or more Parishioners that dwell over farre from the Church, and is served by some inferior Curate provided at the charge of the rector, or of them that have benefit by it, as the composition or custome is. Whence the word is derived, the Canonists differ in opinion. *Rebuffus de pacif. posses. m. 104.* saying, that some take it (*à capiendis laicos*) others (*à cappra*) because it representeth those

cottages, which men were wont to cover over with Goats skins. *Petrus Gregorius in suo syntagmate. li. 15. ca. 29.* hath these words of this thing: *Capellanus à capellania & capelli, cui prescitur, nominantur: item ab officio seu beneficio & capellania. Capelli aliis quibus dicta, quasi capiens laicos seu populos, vel capiens laudem: vel secundum prepositum, à cappa Divi Martini, aut à caprinis pellibus, quibus olim altaria tegebantur secundum Archidiaconum. Arbitraretur & à simplici tecto, quo oratorium campestre operitur, lateribus undique patentibus & paulis. Tetamenim Gallis simpliciter dicitur (chapelle) à capite. Vnde & formata aliqua nomina (chapeau, cape, &c.) Aut capella locus qui minoris spatii sit quam ecclesia, quod tot homines non capiat, ut ecclesia. Ita altare capella est. ca. quasitum, & c. penult. i. quest. 3. Johan. Andreas. in ca. 1. de succes. ab intesta. & prebenda cum onere quotidie celebrandi sacram. liturgiam. ca. significatum. 11. de prebend. & oratorium. ca. autoritate: de privilegiis. in 6. quod in eo loco orationes non alie res profane peragi debeant. ca. pen. & fina. 42. distinct. The same author in his booke de beneficiis, ca. 11. nu. 10. hath these words: *Dicti porro primitus capellani, à cappa Sancti Martini, quam Reges Francorum ob adiutorium in praliis solebant secum habere: quam ferent-**

tes & custodientes, cum ceteris sanctorum reliquiis clerici, capellani caperunt vocari, ut omnia refert Valafrius Strabo. Abbas Augensis, ca. fina. de incrementis rerum ecclesiastica.

There is of these chapels one kind called a free chapel, which seemeth to be such as hath maintenance perpetuall toward the upholding thereof, and wages of the curate, by some land charitably bestowed on it, without the charge of the Rector or parish. *anno 37. H. 8. cap 4. anno 1. Ed. 6. ca. 14.*

Chapellaine, (*capellanus*) is he that performeth divine Service in a chapel; and therefore in our common Law, it is used most ordinarily for him, that is depending upon the King, or other man of worth, for the instruction of him and his family, the executing of prayers and preaching in his private house, where commonly they have a chapel for that purpose, as *anno 21. H. 8. ca. 13.* Where it is set downe what persons may priviledge one or moe Chaplaines, to discontinue from their benefices, for their particular service.

Chapters (*capitula*) commeth of the French (*chapitre. i. capit libri*) It signifieth in our common law, a summary or content of such matters, as are to be inquired of or presented before Justices

in Eyre, Justices of Assise, or of peace in their sessions. So is it used, *anno 3. Ed. 1. cap. 27.* in these words: and that no Clerke of any Justice, Escheatour, or Commissioner in Eyre, shall take any thing for delivering chapters, but onely Clearks of Justices in their circuits: and againe, *anno 13. ejusdem. cap. 10.* in these words: and when the time cometh, the Sheriffe shall certifie the chapters before the Justices in Eyre, how many Writs hee hath, and what, &c. Britton likewise useth the same word in this signification, *cap. 3. Chapters* or (*capitula*) be now called articles most ordinarily, and are delivered as well by the mouth of the Justice in his charge, as by the Clearks in writing to the enquest; whereas in auncient times (as appeareth by *Bracton* and *Britton.*) they were after an exhortation given by the Justices for the good observation of the lawes and Kings peace, first read distinctly and openly in the whole court, and then delivered in writing to the grand enquest. And the same order doth *M. Lamberd* wish to be kept in these dayes also. *Eirenar. lib. 4. cap. 4. pag. 393.* Horn in his mirror of Justices calleth them articles, & expresseth what they were wont to containe. *li. 3. ca. des articles* in *Eire.* An example of these chap-

chapters or articles you have in the book of assises, fol. 138. nu. 44. as also in Roger Hoveden, parte poster. suorum annal. in Richardo primo. fol. 423.

Chapter, (*capitulum*) signifieth in our common Law (as in the Cannon Law, whence it is borrowed) *congregationem clericorum in ecclesia cathedrali, conventuali, regulari, vel collegiata*: and in another signification, *locum in quo fiunt communes tractatus collegiatorum*. It hath other significations, though not greatly worth the repeating in this place, which you may reade in *Linwoods provincials, glos. in ca. quis in continetia, de constitutionibus, verb. Capitulum*. Why this collegiat company should be called (*capitulum*) of the canonists, a man may make a question: and for answer, it may be said, that it is metaphorically so termed, the word originally signifying a little head. For this company or corporation is a kinde of head, not onely to rule and governe the Diocesse in the vacation of the Bishopricke, but also in many things to advise the Bishop, when the Sec is full. See *Panormitan. in ca. capitulum. extra de scriptis*.

Charta perdonationis se defendendo, is the forme of a pardon for slaying another in a mans owne defence. *Register. original. fol. 287.*

Charta perdonationis Vilagarie, is the forme a pardon for a man that is out-lawed. *Regi. orig. fol. 288. 388.*

Charter (*charta*) commeth of the French (*chartres. i. instrumenta.*) It is taken in our Law, for written evidence of things done betweene man and man, whereof *Bracton. lib. 2. cap. 16. num. 1.* saith thus: *Fiunt aliquando donationes in scriptis, sicut in chartis ad perpetuam rei memoriam, propter brevem hominum vitam, &c.* and a little after: *nu. 12. Et sciendum, quod chartarum alia regia, alia privatorum; & regiarum alia privatæ, alia communis, & alia universalis. Item privatorum, alia de puro feoffamento & simplici, alia de feoffamento condicionali sive conventionali: & secundum omnia genera feoffamentorum fieri potest. Item privatorum alia de recognitione pura vel condicionali. Item alia de quiete-clamantia: Item alia de confirmatione, &c.* and so throughout the chapter. *Briton* likewise in his 39. chapter, divideth charters into the Charters of the King, and charters of private persons. Charters of the King are those, whereby the King passeth any grant to any person or more, or to any body politicke: as a charter of exemption that a man shall not bee empaneled upon any Jury. *Kitchin. fol. 114. & fol. 177. charter of*

of pardon, whereby a man is forgiven a felony, or other offence committed against the Kings Crowne and dignitie. *Broke, tit. Charter of pardon.* Charter of the Forest, wherein the lawes of the Forest are comprised. *anno 9. H. 3. Cromptons jurisd. fol. 147. Pupilla oculi, parte 5. cap. 22. Manwood. parte 1. of his Forest lawes, fol. 1. where he setteth downe the Charters of Camutus, and fol. 17. where he hath set downe that which was made, anno 9. H. 3. with the charter of the Forest which wee use, M. Skene saith, that the lawes of the Forest in Scotland doe agree. de verbo signif. verbo. Venison. Charter of land. Broke, eodem titulo. That which wee call a Charter, the Lombards in *libris feudalibus*, call *præceptum* (*præceptionem*) *Hotama. verbo præceptum in verbis feudalibus.* Of these Charters you have also a long discourse in *Fleta. lib. 3. cap. 14.* who expoundeth every substantiall part of a deed of gift particularly in order.*

(*Charter land, (terra per chartam)*) is such as a man holdeth by Charter, that is, by evidence in writing; otherwise called Freehold, *anno 19. H. 7. cap. 13. and Kitchen, fol. 86. and these in the Saxons time, were wont to be called (Bockland) Idem fol. 89. and Lamberd in his explication of*

Saxon words, *verbo Terra ex scripto*, which was held as hee there saith, with more commodious and easier conditions, then (*Falkland*) was: that is land held without writing. And the reason he giveth, because that was *hereditaria, libera, atque immunis*: whereas *fundus sine scripto censum pensitabat annum, atq; officiorum quadam servitute est obligatus. Priorem viri plerumq; nobiles atq; ingenui, posteriorem rustici ferè & pagani possidebant. Illam nos vulgò free-hold & per chartam, hanc ad voluntatem domini appellamus.* Thus farre *M. Lamberd.*

Charta partie (charta partita) is nothing but that which we call a paire of Indentures, containing the covenants and agreements made betweene Merchants, or Sea-faring men, touching their maritime affaires, *anno 32. H. 8. cap. 14.*

Chartis reddendis, is a Writ, which lyeth against him that hath Charters of feofment delivered him to be kept, and refuseth to deliver them, *Old nat. br. fo. 66. Register orig. fo. 159.*

Chase. See *Chace.*

Chatell. See *Catell.*

Chawnce medley (Infortunium) commeth of two French words (*chance. i. lapsus*) and (*mester. i. miscere*) It signifieth in our common law, the casuall slaughter of a man, not altogether with-

out the fault of the slayer. *Stamf. pl. cor. li. 1. ca. 8.* calleth it *homicide* by misadventure. *West.* calleth it *homicide mixt. part. 2. symbol. titu'o Indictments. sect. 50.* and there defineth it thus: *Homicide mixt* is, when the killers ignorance or negligence is joyned with the chance: as if a man lep trees by an high way side, by which many usually travell, and cast downe a bow, not giving warning to take heed thereof, by which bow one passing by is slaine: In which case he offendeth, because hee gave no warning, that the partie might have taken heed to himselfe. See *Skene de verbo signifi. verbo Melle-tum.*

Changeour, is an officer belonging to the Kings mint, whose function seemeth especially to consist, in exchanging coine for gold or silver in the Masse, brought in by Merchants or others, *anno 2. H. 6. ca. 12.*

Charventry, (*cantaria*) is a Church or Chappell endewed with lands or other yearly revenue, for the maintenance of one or moe Priests, daily to sing Masse for the soules of the Donours, and such others, as they doe appoint, *anno 37. H. 8. ca. 4. anno 1. Ed. 6. ca. 14.*

Check rolle, seemeth to bee a rolle or booke, that containeth the names of such, as are atten-

dants and in pay to great personages, as their household servants. It is otherwise called the chequer rolle, *anno 24. H. 8. ca. 13. anno 3. H. 7. cap. 13.* and seemeth to have one etymologie with *escheker*. Which see.

Chevage, (*chevagium*) com-meth of the French (*chef. i. caput*) It signifieth with us, a summe of money paid by villeins to their Lords, in acknowledgement of their slavery. Whereof *Bracton, li. 1. ca. 10.* saith thus: *chevagium dicitur recognitio in signum subjectionis & domini de capite suo.* It seemeth also to bee used, for a summe of money, yearly given by a man to another of might and power, for his avowement, maintenance, and protection, as to their head or leader. *M. Lambert, li. 2. cap. 5. Eirenarch*, writeth it (*chevage*) or rather (*chiefage*.)

Chevisance, commeth of the French (*chevir. i. venir a chief de quelque chose*) to come to the head or end of a busines, to perfect a matter. This word is used for bargaining, *anno 37. H. 8. cap. 9. & anno 13. Eliz. ca. 5. & 8. ann. 10. R. 2. cap. 1. & anno 3. H. 7. cap. 5.*

Chief. See *Capite*.

Chiefe pledge (*plegium, vel vas capitalis*) *an. 20. H. 6. ca. 8.* For the understanding of this word, See *Borrowhead*.

Childwit, commeth of the Saxon word (*child*,) and (*wit*) which some say, in that tongue, is a termination of certain words without signification, as (*dom*) in (*Christendom*) or (*housd*) in (*childhood*) with us. But for the signification of (*wit*) see *Blondwit*. *Childwit* signifieth a power to take a fine of your bondwoman begotten with childe without your consent, *Rastall. exposit. of words.*

Chimin, (*chiminus*) commeth from the French (*chemin. i. aditus, via*) and signifieth in our common law, a way. It is divided into two sorts: the Kings high way, and a private way, *Kitchin fo. 35.* The Kings high way (*chiminus regius*) is that, by which the Kings subjects, and all others under his protection, have free libertie to passe, though the propertie of the soyle of each side, where the way lieth, may perhaps belong to some private man. A way private is that, by which one man or more have libertie to passe, either by prescription or by Charter, through another mans ground. And this is divided into *chymin* in grosse, and *chymin appendant*. *Kitchin fo. 117.* *Chymin* in grosse is that way, which a man holdeth principally and solely in it selfe: *chimin* appendant is that, which a man hath adjoynd to some o-

ther thing as appertinent thereunto. For example, if a man hire a close or pasture, and covenant for ingresse and egressse to and from the said close, through some other ground, by the which c-therwise hee cannot passe. Or *Covimin* in grosse may be that, which the Civilians call personall: as when one covenanteth for a way through another mans ground, for himselfe and his heires: *Chimin* appendant, on the other side, may be that which they call reall: as when a man purchaseth a way through another mans ground, for such as doe or shall dwell in this or that house for ever, or be owners of such a mannor.

Chiminage, (*chiminagium*) signifieth a toll for wayfarage thorow the Forest, *Cromptons jurisd. fo. 189.* and *Manwood parte 1. of his Forest lawes, pag. 86.* See *Chimin*. The *Heudists* call it, *Pedagium*. See *Chimin*.

Chirographer of Fines (*chirographus finium & concordiarum*) commeth of the Greeke (*χειρογραφοι*) which signifieth a writing of a mans owne hand, whereby hee acknowledgeth a debt to another. It signifieth in our common law, him in the Common Bench office, that ingrosseth Fines in that Court acknowledged, into a perpetuall record, after they be acknow-

ledged, and fully passed by those Officers, by whom they are formerly examined; and that writeth and delivereth the Indentures of them unto the partie, *anno 2. H. 3. cap. 8. and West. Symbol. parte 2. titulo fines. sect. 114. & 129. Fitzh. nat. br. fol. 147. A.* This Officer also maketh two Indentures, one for the Buyer, another for the Seller; and maketh one other indented piece, containing also the effect of the Fine, which hee delivereth over to the *Custos brevium*, that is called the foot of the Fine. The *Chirographer* also, or his Deputie, doth proclaime all the Fines in the Court every Terme, according to the Statute; and then repairing to the office of the *Custos brevium*, there indorseth the Proclamations upon the backside of the foot thereof: and alway keepeth the Writ of Covenant, as also the note of the Fine.

Chivage. See *Chevage*.

Chivalrie, (*servitium militare*) cometh of the French (*chevalier. i. eques*) and signifieth in our common law, a tenure of land by Knights service. For the better understanding whereof, it is to bee knowne, that there is no land, but is holden mediately or immediately of the Crowne, by some service or other: and therefore are all our Free-holds that

are to us and our heires, called (*Feuda*) fee-fes, as proceeding from the benefit of the King, for some small yearely Rent, and the performance of such services, as originally were laid upon the Land at the donation thereof. For as the King gave to the great Nobles his immediate tenents, large possessions for ever, to hold of him for this or that rent and service: so they againe in time parcelled out to such as they liked, their lands so received of the Kings bounty, for rents and services, as they thought good. And these services are all by *Litleton* divided into two sorts: Chivalrie, & Socage. The one is martiall and military, the other clownish and rusticall. Chivalry therefore is a tenure of service, whereby the tenant is bound to performe some noble or military office unto his Lord, and is of two sorts: either regall, that is, such as may hold onely of the King: or such as may also hold of a common person, as well as of the King. That which may hold onely of the King, is properly called *Servitium*, or *Sergeantia*: and is againe divided into *grand* or *petit*, i. great or small. Great, commonly called *Grand Sergeantie*, is that where one holdeth lands of the King by service, which hee ought to doe in his owne person unto him: as to beare the Kings Banner,

Banner, or his Speare, or to lead his Hoast, or to be his Marshall, or to blow a Horne, when he seeth his enemies invade the Land, or to find a man at Armes to fight within the foure Seas, or else to doe it himselſe, or to beare the Kings Sword before him at his Coronation, or at that day to be his Sewer, Carver, Butler, or Chamberlaine, *Littleton tit. Sergeantie. Petit Sergeantie*, is where a man holdeth land of the King, to yeeld him yearely some small thing toward his warres, -as a Sword, Dagger, Bow, Knife, Speare, paire of Gloves of maile, a paire of Spurs, or such like. *Littleton titulo petit Sergeantie. Chivalrie*, that may hold of a common person, as well as of the King, is called (*scutagium*) *escuage*, that is, service of the shield. And this is either uncertaine or certaine. *Escuage* uncertaine is likewise twofold: first, where the tenent by his tenure is bound to follow his Lord going in person to the Kings wars against his enemies, either himselſe, or to send a sufficient man in his place, there to be maintained at his cost so many dayes, as were agreed upon betweene the Lord and his first tenent at the granting of the fee. And the dayes of such service seeme to have beene rated by the quantitie of the land so holden:

as if it extend to a whole Knights fee, then the tenent was bound thus to follow his Lord fortie dayes. And a Knights fee, was so much land, as in those dayes was accounted a sufficient living for a Knight: and that was 680 acres, as some opinion is, or 800 as others thinke: or 15 pounds *per annum. Camdens Britan. pag. 110. in meo. S. Thomas Smith sayeth*, that *Census equestris* is fortie pounds revenue in free lands. If the law extend but to halfe a Knights fee, then the tenent is bound to follow his Lord, as above is said, but twentie dayes. If to a fourth part, then ten dayes, *Fitzb. nat. br. fo. 83. C. & 84. C. E.* The other kind of this Escuage uncertaine is called *Castelward*: where the tenent by his land is bound, either by himselſe, or by some other, to defend a Castle, as often as it shall come to his course. Escuage certaine, is where the tenent is set at a certaine summe of money, to bee paid in lieu of such uncertaine service, as that a man shall yearely pay for a Knights fee, twentie shillings, *Stow. annal. pag. 238.* for halfe a Knights fee, tenne shillings, or some like rate. And this service, because it is drawne to a certaine rent, groweth to be of a mixt nature: not meerely Socage, for that it smelleth not of the Plough, and yet Socage in

effect: being now neither personall service, nor uncertaine, *Littleton, titulo Socage*. This tenure called Chivalrie, hath other conditions annexed unto it; as Homage, Fealty, Wardship, Reliefe, and Mariage, *Bracton lib. 2. cap. 35.* which, what they signifie, looke in their places. *Chivalrie* is either generall or especiall. *Dyer fo. 161. num. 47.* Generall seemeth to be, where onely it is said in the Feofment, that the tenant holdeth *per servitium militare*, without any specification of Sergeantie, Escuage, &c. Speciall, that which is declared particularly what kind of Knights service he holdeth by.

Chorall, (*choralis*) seemeth to be any, that by vertue of any of the orders of Clergie, was in ancient time admitted, to sit and serve God in the Quire, which in Latine is termed *Chorus*.

Chose, (*res*) is the French word as generall as (*thing*) is with us. It is in the common law, used with divers Epithites worthy the Interpretation: as, *Chose locall*, is such a thing as is annexed to a place. For example: a Mill is *Chose locall*, *Kitchin fol. 18.* *Chose transitorie*, in the same place seemeth to bee that thing which is moveable, and may bee taken away, or carried from place

to place. *Chose in action*, is a thing incorporeall, and onely a right: as an Annuitie, an Obligation of debt, a Covenant, or Voucher by warrantie, *Broke titulo. Chose in action*. And it seemeth, that *Chose in action*, may be also called *Chose in suspence*, because it hath no reall existence or being, neither can be properly said to be in our possession, *Broke ibidem*.

Church-wardens (*Ecclesiarum guardiani*) bee Officers yearly chosen, by the consent of the Minister and Parishioners, according to the Custome of everie severall place, to looke to the Church, Church-yard, and such things as belong to both, and to observe the behaviours of their Parishioners for such faults as appertaine to the Jurisdiction or censure of the Court Ecclesiasticall. These be a kind of Corporation, inabled by law, to sue for any thing belonging to their Church, or Poore of their Parish. See *Lamberd* in his Pamphlet of the duty of *Church-wardens*.

Churchesseyt, is a word that I find in *Fleta lib. 1. cap. 47. in fine*: whereof he thus writeth: *Certam mensuram bladi tritici significat, quam quilibet olim sancte Ecclesie die Sancti Martini tempore tam Britonum quam Anglorum contribuerunt. Plures tamen magnates, post*

Romanorum adventum, illam contributionem secundum uerem legem Moyſi nomine primitiarum dabant: prout in breui regis Knuti, ad ſunimum Pontificem tranſmiſſo, continetur, in quo illam contributionem, (chirchjed) appellant, quaſi ſemen Eccleſie.

Cinamom (cinamomum) is a tree, whereof the barke is knowne to be a pleaſant, comfortable, and medicinall ſpice, which you have deſcribed in Gerards Herball, li. 3. cap. 142. This is reckoned among garbleable ſpices, anno 1. Jac. cap. 19.

Cinque portes (quinque portus) be thoſe ſpeciall Havens, that lie toward France, and therefore have been thought by our Kings, from time to time, to be ſuch as ought moſt vigilantly to be obſerved againſt Invaſion. In which reſpect, the places where they be, have an eſpeciall governour or keeper, called by his office Lord Warden of the Cinque Ports: and divers priviledges granted unto them, as a particular juſdiction, their Warden having the authoritie of an Admirall among them, and ſending out writs in his owne name. Crompton in his Juſdictions, fol. 28. nameth the Cinque ports, Dover, Sandwich, Rye, Haſtings, Wincheſea, Rumney. Hiſbe: whereof ſome, becauſe the number exceedeth five, muſt either be added to the firſt inti-

tution, by ſome later graunt, or be accompted as appendents to ſome of the reſt. See Gardein of the Cinque ports: and the Statute anno 32. H. 8. cap. 48.

Circuit of action (circuitus actionis) is a longer courſe of proceeding, to recover the thing ſued for, then is needfull. See the new Tearmes of law.

Circumſtantibus, is a word of art, ſignifying the ſupply or making up of the number of Jurors, (if any empaneled appeare not, or appearing, be challenged by either partie) by adding unto them ſo many other of thoſe that are preſent or ſtanding by, as will ſerve the turne, v. an. 35. H. 8. cap. 6. and anno 5. Elizab. cap. 25.

Citie (civitas) commeth of the French (citè) and ſignifieth with us, as it doth in other Regions, ſuch a Towne corporate, as hath a Biſhop and a Cathedrall Church. For Lucas de Penna lege unica, tituli, De Metropol. Beryto. tit. 21. lib. 10. Cod. hath theſe words: Idem locus, urbs, civitas, & oppidum appellator. (Pro quo eſt etiam infra. De ſpectaculis. l. Nemo.) Civitas enim dicitur, quatenus cum juſtitia & magistratuum ordine gubernatur, oppidum, quatenus eſt ibi copia incolarum: & urbs, quatenus muris debito more cingitur. Proprie autem dici-

dicitur civitas, quæ habet Episcopum. Supra de Episcop. & Cleri. l. Nulli. Aliàs dicitur generaliter omnis habitatio plurimorum, quæ muro cingitur. π. de verbo signif. lib. 2. & de penult. l. Nam quod §. Si ita. Sed strictè loquendo, si Episcopo caret, dicitur urbs. π de verb. signif. l. Pupillus. §. Oppidum, &c. Yet M. Crompton in his Jurisdictiones, where he reckoneth up the Cities, leaveth out Ely, though it have a Bishop and a Cathedrall Church, & putteth in Westminster, though now it have no Bishop. And ann. 35. Eliz. cap. 6. Westminster is called a Citie, anno 27. ejusd. cap. 5. Of the Statutes not printed, it is alternatively termed a City or Borough. It appeareth by the Statute, 35. H. 8. cap. 10. that then there was a Bishop of Westminster. Civitas, according to Aristotle, li. 3. politicorum, ca. pri. is defined to be a certain or uniforme government of the Inhabitants, & Cesar civitatem vocat populum eodem jureutentem. Camd. Britan. pa. 310. But this is the generall definition of a Common-wealth, and not of a Citie, at the least, as we now adayes particularly take it. For over and beside that which is above said, Cassanæus in consuetud. Burg. pag. 15. saith, that France hath within the territories of it, one hundred and foure Cities, and giveth reason of this his say-

ing, because there be there so many seates of Archbishops and Bishops.

Clack, as to clack, force, and bard, aliàs, beard good woolls, anno 8. H. 6. ca. 22. whereof the first, viz. to clack wool, is to cut off the sheepes marke, which maketh it to weigh lesse, & so yeeld the lesse custome to the King; to force wooll, is to clip off the upper and more hairy part of it; to bard or beard it, is to cut the head and neck from the rest of the fleece.

Clamea admittenda in itinere per Attornatum, is a writ whereby the King commandeth the Justices in Eyre to admit of ones claime by Attorney, that is employed in the Kings service, and cannot come in his owne person. Register orig. fol. 19. b.

Clayme (clameum) is a challenge of Interest in any thing that is in the possession of another, or at the least out of his owne: as, claime by Charter, claime by Descent. Old nat. br. fol. 11. Si dominus infra annum clameum qualitercunque apposuerit: Bracton lib. 1. cap. 10. See the definition and divers sorts of claime in Plowden. Casu Stowell. fol. 359. a.

Clarentius. See Herald.

Clergie (c'erus, clericatus) is diversly taken: sometime for the whole number of those, that are

(de

de clero Domini) of the Lords lot or share, as the tribe of *Levy* was in *Judæa* : sometime for a plea to an Indictment, or an appeal, and is by *Stawms. pl. cor. lib. 2. cap. 41*, thus defined. Clergy is an ancient liberty of the Church, which hath beene confirmed by divers Parliaments, and is, when a Priest, or one within Orders, is arraigned of felony before a secular Judge, he may pray his Clergy, which is as much as if he prayed to be delivered to his Ordinary, to purge himselfe of the offence objected. And this might be done in case of murder. *Cooke lib. 4. fol. 46. a.* This libertie is mentioned in *articulis cleri, ann. 9 Ed. 2. cap. 16.* and what persons might have their Clergy, and what not, see *Stawms. pl. cor. lib. 2. cap. 42 & 43.* Howbeit there be many statutes made since he writ that booke, wherby the benefit of Clergy is abridged : As *anno 8. El. cap. 4. an. 14 ejusd. c. 5. anno 18 ejusdem, cap. 4, 6, 7. & anno 23 ejusd. cap. 2. a. 29 ejusdem, c. 2. ann. 31 ejusd. ca. 12, a. 39 ejusd. cap. 9. & can. 15.* Of this see *Cromptons Justice of peace, fol. 102, 103, 104, 105.* And *Lamberts Eirenarcha, lib. 4. ca. 14. pag. 543.* And note by the way, that the ancient course of the Law in this point of Clergy, is much altered, for by the statute *Anno 18 Eliz. cap. 7.* Clerks be no more

delivered to their Ordinaries to be purged, but now every man, though not within orders, is put to reade at the barre, being found guilty, and convicted of such felony as this benefit is granted for : and so burnt in the hand and set free for the first time, if the Ordinaries Commissioner, or Deputy standing by doe say (*legit ut Clericum*) or otherwise suffereth death for his transgression.

Clerico admittendo, is a writ directed to the Bishop, for the admitting of a Clerke to a Benefice upon a (*Ne admittas*) tried and found for the party that procureth the writ. *Reg. orig. fol. 31, 6.*

● *Clerico capto per statutum mercatorum, &c.* is a writ for the delivery of a Clerke out of prison, that is imprisoned upon the breach of a statute merchant. *Reg. orig. f. 147.*

Clerico convicto commissso gaule in defectu ordinarii deliberando, &c. is a writ for the delivery of a clerk to his Ordinary, that formerly was convicted of felony, by reason his Ordinary did not challenge him according to the privilege of Clerkes. *Regist. origin. fo. 69. a.*

Clerico infra sacros ordines constituto non elegendo in officiu, is a writ directed to the Bailiffes, &c. that have thrust a Bayliwicke or benefice upon one in holy Orders, charging them to release him a-

gaine. Register orig. fol. 143, a.

Clerke (*clericus*) hath two significations: one, as it is the title of him that belongeth to the holy ministry of the Church, that is, (in these dayes) either minister or deacon, of what other degree or dignity soever: though according to former times, not onely *Sacerdotes & Diaconi*, but also *subdiaconi*, *cantores*, *acolyti*, *exorciste*, & *ostiarii*, were within this account, as they be at this day, where the Canon law hath full power. And in this signification a Clerk is either religious (otherwise called *regular*) or *secular*, anno 4 Hen. 4. cap. 12. The other signification of this word noteth those, that by their function or course of life practise their pen in any court, or otherwise; as namely, the Clerk of the Rolles of Parliament, Clerkes of the Chancery, and such like, whose peculiar offices I purpose to set downe in order, according to that knowledge that I could procure of them.

Clerke of the Parliament Rolles, (*clericus Rotulorum Parlamenti*;) is hee that recordeth all things done in the high court of Parliament, and engrosseth them fairely into parchment rolles, for their better keeping to all posterity. Of these there betwo, one of the higher, another of the lower or common house, *Cromptons Jurisd.*

fol. 4 & 8. Smith de republ. Anglor. pag. 38. See also *Vowels* booke touching the order of the Parliament.

Clerke of the crowne in the Chancerie (*clericus corone in Cancellaria*) is an officer there, that by himselfe or his depury is continually to attend the Lord Chancellor or Lord Keeper, for speciall matters of estate by commission or the like, either immediately from his Majesty, or by order of his privy counsell, as well ordinary as extraordinary, viz. commissions of Lieutenancies, of Justices errant, and of Assises of Oyer and Terminer, of Gaole-delivery, of the peace, and such like, with their writs of Association, and *Dedimus potestatem*, for taking of oathes. Also all generall pardons upon grants of them at the Kings coronation, or at a parliament, where he sitteth in the higher house at the parliament time; the writs of parliament, with the names of Knights and Burgesses, which be to be returned into his office. He hath also the making of all speciall pardons and writs of execution, upon bonds of statute of the Staple forfeited: which was annexed to his office in the reigne of Queene Mary, in consideration of his continuall and chargeable attendance: both these before being common fo

for every cursitor and clerke of court to make.

Clerke of the crowne (*clericus corone*) is a clerk or officer in the Kings Bench, whose function is, to frame, reade, and record all indictments against Traitors, Felons, and other offenders there arraigned upon any publique crime. Hee is otherwise tearmed *Clerke of the crowne office*. And *am. 2. H. 4. cap. 10.* he is called *Clerke of the crowne of the kings Bench*.

Clerke of the Extreats (*clericus Extactorum*) is a clerke belonging to the Exchequer, who termely receiveth the Extreats out of the Lord Treasurers Remembrancer his office, and writeth them out to be levied for the King. Hee also maketh schedules of such summes extreated as are to bee discharged.

Clerke of assise (*clericus assise*) is he that writeth all things judicially done by the justices of assise in their circuits. *Cromptons Jurisdick. fo. 227.*

Clerke of the Pele (*clericus Pellis*) is a Clerke belonging to the Exchequer, whose office is to enter every Tellers bil into a parchment rolle called *Pellis receptorum* and also to make another rolle of payments, which is called (*Pellis exitum*) wherein he setteth down by what warrant the money was paid.

Clerke of the Warrants (*clericus Warrantorum*) is an officer belonging to the court of Common pleas which entreteth all warrants of Attourney for plaintiffe and defendant, and inrolleth all Deeds of Indentures of bargain, and sale, which are acknowledged in the Court, or before any Judges out of the Court. And he doth extreat into the Exchequer all issues, fines, and amerciaments, which grow due to the king any way in that court, and hath a standing fee of ten pounds of the king, for making the same extreats. See *Fitzh. nat. br. f. 76. in prin.*

Clerke of the pety Bag (*clericus parva bagie*) is an officer of the Chauncerie, of which sort there be three, and the Master of the Rolles their chiefe. Their office is to record the returne of all inquisitions out of every shire, all Liveries granted in the Court of Wards, all *ouster le maines*, to make all patents of Customers, Gaugers, Controulers, and Aulnagers, *All cōge de essires*, for Bishops, *All liberatē* upon extents of statute staples, the recoverie of Recognisances forfeited, and all Elegies upon them, the summons of the Nobilitie, Clergy, and Burgeesses to the Parliament, Commissions directed to Knights, and other of every Shire, for seising of the Subsidies. Writs for the

nominations of Collectours for the fifteenth, and all traverfes upon any office, bill or otherwife, and to receive the money due to the King for the ſame. This officer is mentioned, *anno 33. H. 8. cap. 22.*

Clerke of the Kings great wardrobe (*clericus magna garderobe regis*) is an officer of the Kings houſe, that keepeth an account or Inventory in writing, of all things belonging to the Kings wardrobe. This officer is mentioned, *anno 1. Ed. 4. ca. 1.*

Clerke of the Market (*clericus mercati*) is an officer of the Kings houſe, *anno 1. Ed. 4. ca. 1. & anno 13. R. 2. ca. 4.* whole duty is to take charge of the Kings meaſures, and to keep the ſtandards of them (that is) the examples of all the meaſures that ought to be through the land: as of Elms, Yards, Lagens, as Quarts, Pottles, Gallons, &c. of Weights, Buſhels and ſuch like, and to ſee that all meaſures in every place be answerable unto the ſaid Standard *Fleta li. 2. ca. 8. 9. 10. 11. 12.* of which office, as alſo of our diverſitie of weights and meaſures, you may there finde a Treatiſe worth the reading. *Britton* alſo in his 30. chapter, ſaith in the Kings perſon, to this effect: We will that none have Meaſures in the Realm but wee our ſelves: but that every man take his Mea-

ſures and Weights from our Standards: and ſo goeth on with a Tractat of this matter, that well ſheweth the ancient law and practice in this point. Touching this officers duty, you have alſo a good ſtatute, *anno 13. R. 2. cap. 4.*

Clerk of the Kings ſilver (*clericus argenti Regis*) is an officer belonging to the Court of Common pleas, unto whom every fine is brought, after it hath been with the *custos Brevium*, and by whom the effect of the writ of Covenant is entred into a Paper-booke; and according to that note, all the fines of that Term are alſo recorded in the Roles of the Court. And his entrie is in this forme: He putteth the ſhire over the Margin, and then ſaith, *A. B. dat domino Regi dimidium merham* (or more according to the value) *pro licentia concordandi C. cum C. D. pro talibus terris, in tali villa, & habet chirographum per pacem admiſſum, &c.*

Clerke of the Peace (*clericus pacis*) is an officer belonging to the Sessions of the peace. His duty is, in the Sessions to read the Endictments, to enroll the Acts, and draw the proceſſe: to record the Proclamations of rates for ſervants Wages, to enroll the diſcharge, of Apprentices, to keepe the Counterpaine of the Indenture of Armour, to keepe
the

the Register book of Licenses, given to Badgers and laders of corn, and of those that are licensed to shoot in gunnes, and to certifie in to the Kings bench transcripts of Indictments, Outlawries, Attainders, and Convictions had before the Justices of the peace, within the time limited by statute. *Lamberts Eirmarqbs, lib. 4. cap. 3. fo. 379.*

Clerke of the Signet (clericus signetti) is an officer attendaunt continually on his Majesties principall Secretary, who alwayes hath the custody of the privy Signet, as well for sealing his Majesties privat Letters, as also such grants as passe his Majesties hands by bill assigned. Of these there be four that attend in their course, and have their dyet at the Secretaries table. More largely you may reade of their office in the statute made *anno 27 Henric. 8. cap. 11.*

Clerke of the privy seale (clericus privati sigilli) is an officer (whereof there be foure in number) that attendeth the Lord keeper of the privy Seale, or if there be none such, upon the principal Secretary, writing and making out all things that be sent by warrant from the Signet to the privy Seale, and are to be passed to the great Seale, as also to make out (as they are termed) privy Seales upon any e-

speciall occasion of his Majesties affaires; as for loane of mony, and such like. Of this officer and his function, you may reade the statute, *ann. 27 Hen. 8. cap. 11.* He that is in these dayes called the Lord keeper of the privy Seale, seemeth in antient time to have been called Clerke of the privy Seale, and to have beene reckoned in the number of the great officers of the realme. Reade the statute, *anno 12 R. 2. ca. 11.*

Clerke of the Juries or Jurata writs (clericus Juratorum) is an officer belonging to the court of the Common plees, which maketh out the writs called (*Habeas corpora*) and (*Distringas*) for appearance of the Jury, either in court, or at the Assises, after that the Jury or Pannell is returned upon the (*Venire facias*.) He entreth also into the Rolles the awarding of these writs, and maketh all the continuance from the going out of the (*Habeas corpora*) untill the verdict be given.

Clerke of the Pipe (clericus pipe) is an officer in the Kings Exchequer, who having all accounts and debts due to the King, delivered and drawne out of the Remembrancers offices, chargerth them downe into the great Rolle: who also writeth summons to the Sheriffe, to levy the said debts upon the goods and catels of the Debtours: and if

they have no goods, then doth he draw them downe to the Lord Treasurers Remembrancer, to write extreates against their lands. The ancient renew of the Crown remaineth in charge before him, and he seeth the same answered by the Fermers and sherifes to the King. Hee maketh a charge to all sherifes, of their summons of the Pipe and Green wax, and seeth it answered upon their accounts. He hath the drawing and ingrossing of all leases of the Kings land.

Clerke of the Hamper or Hanaper (*clericus Hanapensi*) is an Officer in Chauncery, ann. 2. Edw. 4. cap. 1. otherwise called Warden of the Hamper, in the same statute, whose function is to receive all the mony due to the kings Majesty for the seales of Charters, patents, commissions, and writs, as also fees due to the officers for enrolling and examining the same, with such like. He is tied to attendance on the Lord Chauncellor or Lord Keeper daily in the Terme time, and at all times of sealing, having with him leather bagges, wherein are put all Charters, &c. after they be sealed by the Lord Chauncellour, and those bagges beeing sealed up with the Lord Chauncellours private seale, are to be delivered to the Controller of the Hamper, who upon receipt of them, doth as you shall

reade in his office. This Hanaper representeth a shadow of that which the Romanes tearmed (*Fiscum*) that contained the Emperors treasure.

Clerke of the Plees (*clericus placitorum*) is an officer in the Exchequer, in whose office all the Officers of the court (upon especiall priviledge belonging unto them) ought to sue or to bee sued upon any action.

Clerke of the Treasury (*clericus thesaurarie*) is an officer belonging to the Common plees, who hath the charge of keeping the records of the court, and maketh out all the Records of *Nisi prius*, hath the fees due for all searches, and hath the certifying of all records into the kings Bench, when a writ of Error is brought; and maketh out all writs of (*Superfedas de non molestando*) which are granted for the Defendants while the writ of Errour hangeth. Also he maketh all Exemplifications of Records being in the Treasurie. Hee is taken to be the servant of the chiefe Justice, and removeable at his pleasure, whereas all other officers are for tearme of life. There is also a Secondary, or Under-Clerke of the Treasury for assistance, which hath some allowances. There is likewise an Under-keeper, who alway keepeth one key of the treasury doore, and the

chiefe

chiefe Clerk of the Secondary another, so the one cannot come in without the other.

Clerke of Essoines (*clericus essoniorum*) is an officer belonging to the court of Common pleges, who onely keepeth the Essoines rolle, and hath for entering every essoine fix pence, and for every exception to barre the essoine, in case where the party hath omitted his time, fix pence. Hee hath also the providing of parchment, and cutting it out into rolles, and marking the numbers upon them, and the delivery out of all the rolles to every officer, and the receiuing of them againe when they be written, and the binding and making up of the whole bundles of every term: and this he doth as servant to the chiefe Justice. For the chiefe Justice is at charge for all the parchment of all the rolles.

Clerke of the outlawries (*clericus utlagariarum*) is an officer belonging to the court of common pleges, being onely the servant or Deputy to the Kings Atturay generall, for making out the writs of (*capias utlagatum*) after outlawry. And the kings Attornies name is to every one of those writs. And whereas seven pence is payd for the seale of every other writ, betwixt party and party, there is but a penny payd for the seale of this writ, because it goeth out at the kings suit.

Clerke of the sewers (*clericus sewerarum*) is an officer appertaining to the commissioners of sewers, writing all things that they doe by vertue of their commission, for the which see *Sewers*, and see the statute of *Anna 13 Elizab. cap. 9.*

Clerke controller of the Kings house (whereof there be two) is an officer in court, that hath place and seate in the Counting house, and authority to allow or disallow the charges and demands of pursuivants or messengers of the Green cloath, purveyours, or other like. He hath also the oversight and controlling of all defaults, defects, and miscarriages of any the inferiour officers, and to sit in the counting house with the superiour officers, viz. the Lord Steward, Treasurer, Controller, and Cofferer, either for correcting or bettering things out of order; and also for bringing in countrey provision requisite for the Kings household: and the censure for failing of carriages and carts warned and charged for that purpose. This Officer you have mentioned, *ann. 33. H. 8. cap. 12.*

Clerke of the Nibils (*clericus Nibilorum*) is an officer in the Exchequer, that maketh a rolle of all such summes as are niled by the Sheriffes upon their estreats of greene wax, and delivereth

vereth the same into the lord treasurers Remembrancer his office, to have execution done upon it for the king.

Clerke of the check is an officer in court, so called because hee hath the check and controulment of the yeomen of the Gard, and all other ordinary yeomen or huissiers belonging either to his Majesty, the Queene, or Prince, either giving leave, or allowing their absences or defects in attendance, or diminishing their wages for the same. He also nightly by himselfe or deputy, taketh the view of those that are to watch in the Court, and hath the setting of the watch. This officer is mentioned, Anno 33. Henric. 8. cap. 12.

Clerke Marshall of the Kings house, seemeth to be an Officer that attendeth the Marshall in his Court, and recordeth all his proceedings; anno 33 Henr. 8. cap. 12.

Clothe of Raye, an. 27 E. 3. stat. 1. cap. 4.

Clothe, is an unlawful game forbidden by the statute, anno 17 E. 4. cap. 3. which is casting of a bowle at nine pinnes of wood, or nine shanke bones of an oxe or horse.

Clove is the 32 part of a weigh of cheese. eight pound; an. 9 H. 6. cap. 8.

Cloves (*caryophylli*) are a spice

knowne by sight to every man. They are flowers of a tree called (*caryophyllus*) gathered and hardened by the Sunne. Of their nature you may reade in *Gerards Herbal*, li. 3. ca. 144. This is comprised among such spices as bee to bee garbled. anno 1. Jacob. ca. 19.

Cocket (*cokettum*) is a seale appertaining to the Kings Customhouse, *Regist. orig. fol. 192 a.* and also a scrow of parchment sealed and delivered by the officers of the Customhouse to Merchants, as a warrant that their merchandise be custumed, anno 11 H. 6. ca. 18. which parchment is otherwise called *litera de coketto*, or *litera testimoniales de coketto*, *Regist. ubi supr. fol. 179 a.* So is the word used, anno 5 & 6 Edw. 6. ca. 14. and anno 14 Edw. 3. stat. 1. ca. 21. This word is also used for a distinction of bread in the statutes of bread and ale, made anno 5 H. 3. where you have mention of bread coker, wastell bread, bread of trete, and bread of common wheat.

Coseler of the Kings household, is a principall officer of his Majesties court next under the controller, that in the counting house, and elsewhere at other times hath a speciall charge and oversight of other officers of the household, for their good demeanour and carriage in their offices, to all which

which one & other, being either Sergeants, Yeomen, Groomes Pages, or children of the kitchen, or any other in any roome of his Majesties servants of household, and payeth their wages. This officer is mentioned, *an. 39 E/iz. cap. 7.*

Cogs, an. 23 H. 8, cap. 18.

Cognisour of a fine, is he that passeth or acknowledgeth a fine in lands or tenements to another: *Cognisee* is he to whom the fine is acknowledged. *West, parte 2. symbol. tit. Fines, sect. 2.*

Cognizance, commeth from the French (*cognisance*, id est, *intelligentia*, *intellectus*, *notia*, *cognitio*) with us it is used diversly; sometime signifying a badge of a servingmans sleeve, whereby he is discerned to belong to this or that Noble or Gentleman: sometime an acknowledgement of a fine, or confession of a thing done: as *cognoscens latro*. *Bracton lib. 3. tract. 2. ca. 3, 20, 32. cognoscere se ad villanum*, *Idem, lib. 4. tract. 3. cap. 16.* As also to make cognisance of taking a distresse: sometime as an audience or hearing of a matter judicially, as to take cognisance: sometime a power or jurisdiction, as cognisance of plee, is an ability to call a cause or plee out of another Court: which no man can doe but the King, except he can shew Charters for it. *Manwood,*

part 1. of his Forest lawes, pag. 68. See the new Termes of the Law, and the new book of Entries, & *erbo Cognisance.*

Cognatione, see *Cosenage*.

Cognisour, see *Conisfour*.

Cognitionibus mittendis is a writ to a Justice, or other that hath power to take a fine, who having taken acknowledgement of a fine, deferreth to certifie it into the court of Common plects, commanding him to certifie it. *Reg. orig. 68, b.*

Coin (*cuneus vel cuna*) seemeth to come from the French (*coin*, id est, *Angulus*) which probably verifieth the opinion of such as doe hold the ancientest sort of Coyne to bee cornered, and not round. Of this Lawyers substantive (*cuna*) commeth the Lawyers verbe (*cunare*) i. to coyne. *Cromptons Justice of peace fol. 220.*

Coriander seed, or rather *coriander seed* (*Semen coriandri*) is the seed of an hearbe so called, medicinal and wholesome for diverse good purposes: which see in *Gerards Herbal, l. 2. cap. 379.* It is numbred among the drugges that be to be garbled. *an. 1 Jacob. cap. 19.*

Collateralis (*collateralis*) commeth of the Latine (*Lateralis*) id est, that which hangeth by the side, *Lateralis viatoria. n. de lega & fidelium, tertio l. 102.* seem to

signifie a budget or cap-case to hang by a saddle pommel. *Collateral* is used in the common law for that which commeth in, or is adhering of the side: as collateral assurance is that which is made over and beside the deed it selfe. For example, if a man covenant with another, and enter bond for the performance of his covenant, the bond is termed collateral assurance, because it is external, and without the nature and essence of the covenant. And *Crompt. Jurisd. fol. 185.* sayth, that to bee subject to the feeding of the Kings Deere is collateral to the spoyle within the Forest. In the like manner may we say, That the liberty to pitch boothes or standings for a Faire in another mans ground, is collateral to the ground. The privat woods of a common person within a Forest may not bee cut without the Kings licence. For it is a prerogative collateral to the soile. *Mannwood parte 1 of his Forrest laws, p. 66.*

Collateral warranty, see *Warranty*.

Collation of a benefice (*collatio beneficii*) signifieth properly the bestowing of a Benefice by the Bishop that hath it in his own gift or patronage, and differeth from Institution in this, for that Institution into a benefice is performed by the Bishop, at the

motion or presentation of another who is patron of the same, or hath the Patrons right for the time. *Extra de institutionibus, & De concessione prebendarum, &c.* And yet is collation used for presentation, *anno 25. Edw. 3, stat. 6.*

Collatione facta uni post mortem alterius, &c. is a writ directed to the Justices of the Common Plees, commanding them to direct their writ to a Bishop, for the admitting of a Clerke in the place of another presented by the King, that during the tuit betwene the King and the Bishops Clerke is departed. For judgement once passed for the Kings Clerke, and he dying before he bee admitted, the King may bestow his presentation upon another. *Registr. orig. fol. 31 b.*

Collatione heremitagii, is a writ whereby the King conferreth the keeping of an Ermitage upon a Clerke. *Register orig. fol. 303, 308.*

Colours (*color*) signifieth in the common law, a probable plea, but in truth false, and hath this end, to draw the triall of the cause from the jury to the Judges. Of this see two apt examples in the Authour of the new Termes, *verbo Colours*, who also referreth you to the Doctor and Students, *fol. 158, &c.* See *Brooke, in Colours in Assise, tres-*

treffas, &c. fol. 140.

Collusion (*collusio*) is in our common law, a deceitfull agreement or compact betweene two or more, for the one party to bring an action against the other to some evill purpose, as to defraud a third of his rights, &c. See the new Termes, and Break tit. *Collusion*. See also one Case of *Collusion* in the Register orig. fol. 179 a.

Combat (*duellum*) is a French word, signifying as much as *certamen, decortatio, dimicatio, discrimen, praelium, pugna* but in our common law it is taken for a formal trial of a doubtful cause or quarrell, by the sword or Bastons of two Champions. Of this you may reade at large, both in divers Civilians, as *Paris de Pacto, de re militari & duello. Alciat de Duello. Hotoman disputatio, feudaliu, cap. 42.* and others. As also in our common Lawyers of England, namely *Glanville, l. 14. cap. 1. Bracton, l. 3. tract. 2. cap. 3. Britton, cap. 22. Horns Myrrhor of justice, l. 3. cap. des exceptions in fine proxime ante c. Juramentum duelli. Dyer, fo. 301. m. 41 & 42.* That this also was anciently the Law of the Lombards, before they invaded Italy (which was about the year of our Lord 571) appeareth by *Sigonius*, in his history *de regno Italia l. 2. de Aricaldo orige*: who there reporteth, that the said king

having put away his wife *Gundeberga*, upon a surmise of Adulterie with *Toto Duke of Estruria*, at the private suggestion of *Adalulphus*, a great man among the Lombards, and being charged by *Clotharins* the King of France his Ambassadors, of whose blood shee was, that hee had done her wrong: hee answered, that hee had done her no wrong. Whereupon *Ansfaldus* one of the Ambassadors replied; That they would easily beleve him, if hee would suffer the truth to be tryed by combat, betweene some one of the Queenes friends, and her accuser, according to the custome of the Lombards. And the King yielding unto this, *Adalulphus* was vanquished by one *Pitto*; otherwise called *Charles*, set forth for the Queenes Champion, and shee restored to her former place and honour.

Comin seed, alias *Cumin seed*, (*Semen cumini*) is a Seed, brought forth by an Herbe so called, which you may see described in *Gerards Herball, lib. 2. cap. 416.* This is placed among the garbleable drugges, *anno 11. Jacob. cap. 19.*

Comitatus commissio, is a writ or a Commission, whereby the Sheriffe is authorized to take upon him the sway of the County, *Reg. orig. fol. 295. a. b. and Cokes Reports, l. 3. fol. 72. a.*

Comitatu & castro commissio, is a writ whereby the charge of a Countie, together with the keeping of a Castle, is committed to the Sheriffe, *Reg. orig. fol. 295. b.*

Commandrie (*præceptorie*) was by some mens opinion, a mannor or chiefe messuage, with which lands or tenements were occupied, belonging to the Priorie of *S. Johns in Hierusalem*, in England: and hee which had the Government of any such Manor or house, was called the Commander, who had nothing to dispose of it, but to the use of the Priory, taking onely his sustenance thence, according to his degree, and was usually a brother of the same Priorie. Author of the new Termes of Law, *verbo, Commandrie*. By some other Bookes it appeareth, that the chief Prior of *S. Johns*, was a commander of a Nunnerie, and constituted the Priores of the said Nunnerie, who was under his obedience, and removeable at his will, notwithstanding that shee had Covent, and Common seale, and had her possessions severall, and was wont to lease the land for terme of yeeres, *Fulbecki Paraleli, fol. 2. a.* Of these commandries also *Petrus Gregorius lib. de beneficiis, cap. 11. num. 11.* hath these words: *Præceptorie dictæ commende sacrorum militum, vel liti ordinis hospit alii Sancti Joanni*

Hierosolymitani, beneficia quidam secundum quid ecclesiastica dicuntur à Barbatiā ad Clement. causam col. 51. de Electione. Tamen non proprie dicuntur ex genere communium beneficiorum, eo quod personæ conferentes, & quibus conferuntur, non sunt laici vel ecclesiastice, sed tertii ordinis. De his beneficiis fit mentio. cap. exhibitæ de privilegiis. in extravag. com. in cap. Dudum, de decimis. These in many places of our realme are tearmed by the name of Temples, because they sometime belonged to the Templers. Of these you reade, anno 26 H.8. cap. 2. & anno 32 ejusd. cap. 24. And of these the sayd Gregorius Tolosanur, l. 15, sui syntagmatis, cap. 34. hath these words: Monuimus superiori capite, crescente numero peregrinorum, juxta templum Hierosolymitanum Xenodochium edificatum, tit. Divi Johannis, quo exciperentur peregrini, quos ecclesia capere non possent. Hujus ergo ministerio quoque viri pii nobiles se devoverunt, qui & peregrinos tuteantur, & à latronum seu Agarenorum incurſu defenderent. Horum professio est votum solenne paupertatis & abdicationis propriorum, castitatis, & obediencie. Proinde propter primum votum nihil proprii habent, vel habere debent, sed accipiunt annonam, quàm diu vivunt, vel præceptorie (quas vocant Commanderies) administrant, quàm diu eas possident, & optione mutant,

vel ex magistri licentia permutant reddituri morientes que apud eos reperientur, societati. Of these *Consuew* in his Paraphrase ad sacerdot. mat. part. 1. ca. 3. sayth thus: *Preceptoria Rhodienses, cum non nisi fratribus Hierosolymitanis, atque ita personis ecclesiasticis conferantur, beneficiis ecclesiasticis annuuntari merito debent.*

Commandement (*preceptum*) is used diversly in the Common law: sometime for the commandement of the King, when upon his mere motion, and from his owne mouth, he casteth any man into prison. *Stawns. pl. Coron. fol. 72.* or of the Justices. And this commandement of the Justices is either absolute or ordinary. Absolute, as when upon their owne authority, in their wisdom and discretion, they commit a man to prison for a punishment: ordinary is, when they commit one rather for safe custody than punishment. And a man committed upon an ordinary commandement is replevisable, *Pl. cor. fol. 73.* Commandement is again used for the offence of him that willeth another man to transgresse the law, or to do any such thing as is contrary to the law, as Murther, Theft, or such like. *Bract. l. 3. tract. 2. ca. 19.* And this the Civilians call (*mandatum*) *Angelus de maleficiis.*

Commens (*communis*) commeth

from the French (*commun*, i. quod ad omnes pertinet) and signifieth in our common law, that soyle or water whereof the use is common to this or that towne or Lordship; as Common of pasture, (*communis pastura*) *Bract. lib. 4. ca. 19 & 40.* Common of fishing, *communis piscaria. Idem l. 2. ca. 34.* Common of Turbarie, i. of digging Turves (*communis turbarie*) *Idem lib. 4. cap. 41.* Common of estovers (*communis estoveriorum.*) *Kitchin, fol. 94.* Common is divided into Common in grosse *commen appendant*, *commen appertinent* and *commen per caus. de vicinage*, i. by reason of neighbourhood. Common in grosse is a liberty to have Common alone (that is,) without any land or tenement, in another mans land, to himselfe for life, or to him and his heires. And it is commonly passed by deed of grant or specialty, *Old nat. brev. fol. 31 & 37.* *Commens appendant* and *Commens appertinent* be in a manner confounded; as appeareth by *Fitz. Nat. brev. fol. 180.* and be defined to be a liberty of Common, appertaining to, or depending of such or such a Free-hold. Onely *Kitchin, fol. 94.* seemeth to make this difference, that he which hath *Commens appertinent*, hath it without limitation of this or that kinde of Beasts. But that is controlled by *Dyer, fol. 70. b.*

nu. 19. Hee that hath *Common* appen-
 tant hath it but for beasts com-
 menable, as horses, oxen, kine
 and sheep, being accounted fit-
 test for the Plowman: and not
 of Goats, Geese, and Hogs.
 Whereunto the Author of the
 new Termes of Law addeth a-
 nother difference, which is, That
 Common appertinent may bee
 severed from the land wherun-
 to it is appertinent, but not
 Common appendant. The origi-
 nall of Common appendant, Sir
Edw. Coke, l. 4. fol. 37. thus ex-
 presseth: Common appendant
 by the ancient Law had begin-
 ning in this manner; when a
 Lord infeoffed another in earable
 lands, to hold of him in Socage,
 (*id est, per servitium socæ*) as all te-
 nure in the beginning, according
 to *Littleton*, was: the Feoffee to
 maintaine the service of his plow,
 had Common in the wastes of his
 Lord, for his necessary beasts to
 gaine and compasse his land: and
 that for two causes; one, for that
 as then it was taken, it was
 (*tacite*) implied in the feoffe-
 ment, by reason the Feoffee
 could not gaine or compasse his
 land without cattell, and cat-
 tell could not be sustained with-
 out pasture, and so by conse-
 quent, the feoffee had, as a thing
 necessary and incident, Common
 in the wastes and land of the
 Lord. And this appeareth by an-

cient bookes, *temp. Ed. 1. tit. Com-*
mon 24. & 17 *Ed. 2. tit. Common*
 23. & 20 *Ed. 3. tit. Admesurement*
 8. & 18 *Ed. 3.* and by the rebearfall
 of the statute of *Merton. c. 4.* The
 second reason was for maintenance
 and advancement of tillage, which
 is much regarded and favoured
 in the Law. Thus far Sir *Ed-*
ward.

Common per cause de vicinagi, is
 a liberty that the tenants of one
 Lord in one town, have to Com-
 mon with the tenants of another
 Lord in another towne: which
 kinde of Common they that chal-
 lenge, may not put their cattell
 into the Common of the other
 Towne; for then they be distreina-
 ble: but turning them into their
 owne fields, if they stray into the
 neighbors Common they must be
 suffered. See the Terms of Law.
 Common of pasture the Civili-
 ans call *Jus compascendi*, *cum so-*
phres ex municipibus qui diversa
predia possidebant, saluum commu-
nem, ut jus compascendi haberent
mercarentur. l. penult. si servit, ven-
dicetur. It is also called *Jus com-*
pascuum. *Ibid.*

Commendam (*commendæ*) is a
 Benefice that being voyd, is com-
 mended to the charge and care of
 some sufficient Clerke, to bee
 supplied, untill it may be con-
 veniently provided of a Pastor.
 And that this was the true ori-
 ginnall of this practise, you may
 reade

reade at large in Duarenus, de sacris ecclesie ministeriis & beneficiis, l.5. ca.7. And whereas the glosse, in verbo commendare, in ca. Nemo deinceps: de electione, in sexto, definitiō commendam esse ecclesie custodiam alicui commissam: Johannes Andreæ thereupon sayth thus: hinc definitioni necessario hæc adjicienda putem: in tempus gratiæ evidentia necessitatis & utilitatis. Idq; docuit textus in dicto capite. Nemo. Contrastus in his paraphrasede sacerdotiorum materia, parte 1. cap.6. nu.3. & seq. thus describeth the matter: In commendam conceditur beneficium, cum Romanus Pontifex Legatus, aut Episcopus (Neq; enim inferioribus, qui ex privilegio aut alio jure spiritali conferunt, concessum est, ca. cum omnes basilica, 16. quæst.7.) ecclesie vacantis custodiam alicui committat, administratorem generalem ejus templi eum constituens, ca. nemo, de electio in sexto. Commendare enim aliud est nihil, quam depanere. l. publius. π. depositi. l. commendare. π. de verb. signific. Hoc autem, ad tempus sex mensium, & pro evidenti necessitate aut utilitate ecclesie lex permittit, (d. ca. Nemo.) Quare commendatarius qui ecclesie vacantis & fructuum, ad tempus duntaxat custodiam habet, nec tenere beneficium, jussu habere in beneficio, aut canonicum titulum consuebitur aut nec depositarius in re deposita: whereof also Petrus Gregorius de beneficiis, cap.10.

nu.13, thus writeth: In hac quarta divisione, potest addi tertium genus beneficii, quod citra prescriptionem qualitatis à persona alterius qualitatis quam beneficium exigat naturâ, possidetur, sed sine præjudicio naturæ beneficii, & per dispensationem, eo commendato olim ad tempus certum certæ personæ, bodie, ut plerumque quam diu commendatarius vixerit. Vocant hoc beneficium commendatum commendam: ut si regulare beneficium à Summo Pontifice conferatur, nomine commendæ seculari. Nam ideo non mutatur beneficii natura, nec fit ideoulare, &c. And a little after, Interim annotabimus duplici de causa fieri commendam ecclesie, nempe vel in utilitatem ecclesie, vel commendatarii. In primo commendatitulum non dat beneficii commendatario, & dicitur potius custodia qua revocari potest: quod repugnat naturæ beneficii, quod est perpetuum. In secundo autem casu beneficium censetur in utilitatem commendatarii commendata, quam possidere potest quam diu vixerit, &c. whom you may also read, c.2, l.13.

Commissary (commissarius) is a title of ecclesiasticall jurisdiction, appertaining to such a one as exerciseth spirituall jurisdiction (at the least so far as his Commission permitteth him) in places of the Diocess so far distant from the chiefe City, as the Chancellor cannot call the subjects

jects to the Bishops principall Consistory, without their too great molestation. This Commissary is of the Canonists tearmed *commissarius*, or *officialis foraneus*. Lyndwoods *provin. cap. 1. de accusatio, verbo. Mandatum archiepiscopi, in glos.* and is ordained to this especiall end, that he supply the Bishops jurisdiction and office in the out-places of the Dioceses, or else in such parishes as bee peculiar to the Bishop, and exempted from the jurisdiction of the Archdeacon. For where either by prescription or composition, there be Archdeacons that have jurisdiction within their archdeaconries, as in most places they have, there this commissarie is but superfluous, and most commonly doth rather vex and disturbe the Countrey for his lucre, than of conscience seeke to redresse the lives of offenders. And therefore the Bishop taking prestation mony of his Archdeacons yearly, *pro exteriori jurisdictione*, as it is ordinarily called, doth by super-onerating their circuit with a commissary, not onely wrong archdeacons, but the poorer sort of subjects much more, as common practise daily teacheth to their great woe.

Commission (commissio) is for the most part in the understanding of the Common law, as much as (*delegatio*) with the Civilians, (See

Brooke, titulo Commission) and is taken for the warrant or Letters Patents, that all men exercising jurisdiction either ordinary or extraordinary, have for their power to heare or determine any cause or action. Of these see divers in the table of the *Register originall, verbo Commissio*. Yet this word sometime is extended further than to matters of judgment: as the Commission of Purveyours or Takers, *anno 11 H. 4. cap. 28*. But with this epitheton (*High*) it is most notoriously used for the honourable Commission Court, instituted and founded upon the statute, *1 Eliz. cap. 1.* for the ordering and reformation of all offences in any thing appertaining to the jurisdiction ecclesiasticall: but especially such as are of higher nature, or at the least require greater punishment, than ordinary jurisdiction can afford. For the world being growne to that looseness, as not to esteem the censure of excommunication, necessity calleth for those censures of fines to the Prince and imprisonment, which doe affect men more neerly.

Commission of rebellion (commissio rebellionis) is otherwise called a writ of Rebellion (*Breve Rebellionis*) and it hath use, when a man after proclamation made by the Sheriffe upon an order

of the Chauncerie, or court of Starre-chamber, under penalty of his allegiance, to present himselfe to the Court by a certaine day, appeareth nor. And this Commission is directed by way of command to certaine persons, to this end, that they, or three, two, or one of them, doe apprehend, or cause to be apprehended, the partie as a rebell and contemner of the Kings lawes, wheresoever they find him within the Kingdome, and bring him, or cause him to be brought to the Court, upon a day therein assigned. The true Copie of this Commission or Writ, you have in *Cromptons* divers jurisdictions. *Court de Starre Chamber*: as also in *West. tractat.* touching proceedings in Chancerie, *Seccio 24.*

Commissioner (commissionarius) is hee that hath commission, as Letters Patents, or other lawfull warrant, to execute any publike office: as Commissioners of the office of Fines and Licenses. *West. parte 2. symbol. titulo Fines. sect. 106.* Commissioners in Eyre, *anno 3. Ed. 1. cap. 26.* with infinite such like.

Committee, is hee to whom the consideration or ordering of any matter is referred, either by some court, or consent of parties, to whom it belongeth. As in Parliament, a Bill being read, is

either consented unto, and passed, or denied, or neither of both, but referred to the consideration of some certaine men, appointed by the house, farther to examine it: who thereupon are called *Committees*. Committee of the King, *West. par. 2. symb. titulo Chaucerie. sect. 144.* This word seemeth to bee something strangely used in *Kitchin, fo. 160.* where the widow of the Kings tenant being dead, is called the Committee of the King, that is, one committed by the ancient law of the land, to the Kings care and protection.

Common bench (bancus communis) is used some time for the court of Common plees, *anno 2. Ed. 3. ca. 11.* So called, as *M. Camden* saith in his *Britannia. pa. 113. quia communia placita inter subditos ex jure nostro, quod commune vocant, in hoc disceptantur*; that is, the Plees or Controversies tryed betweene Common persons.

Common fine (finis communis) of this, *Fleta* hath these words: *Quibus expeditis* (speaking of the businesse finished by Justices in Eyre) *consueverunt Justiciarii imponere villatis, juratoribus, lundredis, & toti comitatui conclamentum, & omnes separatim amerciare: quod videtur voluntarium, cum de perjurio & conclamento non fuerint convicti, sed potius dispensandum*

esset cum eis quod animas in statera posuerint pro pacis conseruatione. li. 1. cap. 48. §. Quibus. And a little following, §. Et provisum, he hath these words: Et provisum est, quod communes misericordia vel fines communitatum amerciatorum in finibus inuenerunt Justiciariorum ante recessum ipsorum Justiciariorum per sacramenta militum, & aliorum proborum hominum de communitate eodem, affidentur super eos qui contribuere debent: unde particula Justiciariorum liberentur, ut cum aliis extractis suis ad Scaccarium liberare valeant. These last words of his have relation to the Statute, *Westminst. pr. cap. 18.* which reade. See *Fine.*

Common Plees (*communia placita*) is the Kings Court now held in *Westminster Hall*, but in ancient time moveable, as appeareth by the Statute called *Magna charta*, cap. 11. as also *an. 2. Ed. 3. cap. 11.* and *Pupilla oculi*, parte 5. cap. 22. But *M. Gwin* in the Preface to his Readings saith, that untill the time that *Henry the third* granted the great Charter, there were but two Courts in all, called the Kings Courts: whereof one was the Exchequer, the other, the Kings Bench, which was then called (*Curia Domini regis*) and (*Aula regia*) because it followed the Court or King: and that upon the grant of that Char-

ter, the court of Common Plees was erected, and settled in one place certaine: viz. at *Westminster*. And because this Court was settled at *Westminster*, wherefoever the King lay: thereupon *M. Gwin*, ubi supra, saith, that after that, all the writs ran, *Quod sit coram Justiciariis meis apud Westmonasterium*: whereas before the party was commanded by them, to appeare coram me vel Justiciariis meis, simply without addition of place, as he well observeth out of *Glanville* and *Bracton*, the one writing in *Henry the seconds* time, before this Court was erected, the other in the latter end of *Henry the thirds* time, who erected this Court. All civill causes both reall and personall are, or were in former times, tryed in this court, according to the strict law of the Realme: and by *Fortescue*, cap. 50. it seemeth to have beene the onely Court for reall causes. The chiefe Judge thereof is called the Lord chiefe Justice of the Common Plees, accompanied with 3 or 4 Assistants or Associates, which are created by Letters Patents from the King, and (as it were) enstalled or placed upon the Bench, by the Lord Chancellor, and Lord chiefe Justice of the Court, as appeareth by *Fortescue*, cap. 51. who expresseth all the circumstances of this admision. The rest of the Officers

cers belonging to this Court, are these: The *Custos breuium*, three Protonotaries, otherwise called Prenotaries, Chirographer, Filazers 14. Exigenters 4. Clerke of the Warrants, Clerke of the Juries, or jurata writs, Clerke of the Treasury, Clerk of the Kings Silver, Clerk of the Essoines, Clerk of the Out-lawries. Whose distinct functions look in their places. See *Common Bench*.

Common day in plee of land, an. 13. R. 2. stat. 1. cap. 17. signifieth an ordinary day in the Court as *Octavis Michaelis*, *quindena pasce*, &c. as you may see in the statute made, anno 51. H. 3. concerning generall dayes in the Bench.

Common house of Parliament, is used for the nether house: because the Commons of the realme, that is, the Knights of the Shires and Burgeses, possesse that house, *Crompton, jurisd. 9.*

Commotes, seemeth to be compounded of the Preposition (*con*) and (*mot. i. dictio, verbum*) and signifieth in Wales a part of a Shire, as an Hundred, an. 28. H. 8. ca. 3. It is written *Commaishet*, an. 4. H. 4. ca. 17. and is used for a gathering made upon the people (as it seemeth) of this or that Hundred, by Welsh Minstrels.

Common law, (*communis lex*) hath three divers significations, which see in the Author of new

termes of law, *verb. Common law.*

Communi custodia, is a writ that lyeth for that Lord, whose tenant holding by Knights service, dyeth, and leaveth his eldest Son under age, against a stranger that entreth the land, and obtraineth the ward of the body. It may seeme to take the name from the common custome or right in this case: which is, that the Lord have the wardship of his tenant, untill his full age, or because it is common for the recovery both of land and tenant, as appeareth by the forme thereof. *Old. nat. br. fol. 89.* See also the *Register orig. fol. 161. a.*

Communi placito non tenendo in scaccario, is a writ directed to the Treasurer and Barons of the Exchequer, forbidding them to hold Plee betweene two common persons in that Court, neither of them belonging toward the said Court, *Register orig. fol. 187. b.*

Companion of the Garter, is one of the Knights of that most noble and honourable order. an. 24. H. 8. ca. 13. See *Garter*.

Compromis (*compromissum*) is a mutuall promise of two or more parcies at difference, to referre the ending of their Controversies, to the arbitrimnt and equitie of one or more Arbitrators. *West. defineth it thus, parte 2. Symbol. titulo Compromise sect.*

pri. A compromise or submission (*arbitrium, compromissum, submissio*) is the facultie or power of pronouncing sentence betweene persons at controversie, given to Arbitrators by the parties mutuall private consent, without publike authoritie.

Computo, is a writ so called of the effect: because it compelleth a Bailiffe, Chamberlaine, or Receiver to yeeld his account, *Old nat. br. fo. 58.* It is founded upon the statute of *Westm. 2. ca. 2. anno 13. Ed. 1.* which for your better understanding you may reade. And it lyeth also for executours of executours, *anno 15. Ed. 3. statut. de provis. victuall. cap. 5.* Thirdly, against the garden in Socage for waste made in the minority of the heire, *Marlb. ca. 17.* And see farther in what other cases it lyeth, *Register orig. fol. 135. Old nat. br. ubi supra. & Fitzb. nat. br. fol. 116.*

Concealers, be such as find out cōcealed lands, that is, such lands as are privily kept from the King by common persons, having nothing to shew for them, *anno 39. Eliz. cap. 22.* They be so called, à *concelando, as mons a movendo, per antiphrasin.*

Concord (*concordia*) is in the common law, by a peculiar signification, defined to be the verie agreement betweene parties, that intend the levying of a Fine

of lands one to the other, who and in what manner the land shall passe. For in the forme thereof many things are to be considered, *West. parte 2. Symbol. titulo. Fines and concords, Sect. 3c.* whom reade at large. Concord is also an agreement made upon any trespassse committed between two or more: and is divided into a Concord executory, and a Concord executed. See *Plowden, casu Reniger, & Fogassia. fo. 5. & 6.* where it appeareth by some opinion, that the one bindeth not as being imperfect: the other absolute, and tyeth the parties: and yet by some other opinion in the same case, it is affirmed that agreements executory bee perfect, and doe no lesse bind, then agreements executed, *fol. 8. b.*

Concubinage (*concubinatus*) is an exception against her, that sueth for her Dower, whereby it is alleaged, that shee was not a wife lawfully married to the partie, in whose lands shee seeketh to be endowed, but his concubine, *Britton, ca. 107. Bract. li. 4. tract. 6. cap. 8.*

Condition (*conditio*) is a rate, mannor, or law, annexed to mens acts, staying or suspending the same, and making them uncertaine, whether they shall take effect or no, *West. parte 1. symb. li. 2. Sect. 156.* In a lease there may

be two sorts of conditions : condition collaterall, or condition annexed to the rent. Sir Edward Coke, *lib. 3. Pennants case, fol. 64.* Collaterall condition is that, which is annexed to any collaterall act : as that the Leassee shall not goe to Rome, *ib. fol. 65.* Condition is also divided, into condition in deed or fact, and condition in law : which otherwise may be termed, condition expressed, and condition implied. Perkins, *Conditions, 722.* These, and other like divisions of conditions, you may reade in the Author of the new Termes of law, *verbo. Condition.* And in Littleton, *lib. 3. cap. 5.*

Conders, may seeme to proceed from the French (*conduire. i. deducere, gubarnare*) they be such as stand upon high places neare the Sea-coast, at the time of Herring fishing, to make signes with Boughes, &c. in their hand unto the Fishers, which way the shole of Herrings passeth. For that may better appeare to such as stand upon some high cliffe on the shore, by a kind of blew colour, that the said Fish causeth in the water, then to those that be in the Ships. These be otherwise called huers, by likelihood of the French (*buyer. i. exclamare*) and balkers : as appeareth by the statute, *anno 1. Jacob. cap. 23.*

Cone & key. Bracton, *lib. 2.*

cap. 37. num. 3. Looke Cover and Key.

Confirmation (*confirmatio*) is a strengthening of an estate formerly had, and yet voidable, though not presently voide. For example ; a Bishop granteth his Chancelership by Patent, for the terme of the Patentee his life : this is no void grant, but voidable by the Bishops death, except it be strengthened by the confirmation of the deane and Chapter. See more of this, in West. *parte prim. symb. lib. 2. sect. 500.* and Fitzb. *nat. br. fol. 169. B. 226. H. 271. D. 163. G. and Littleton, lib. 3. cap. 9.*

Confiscate (*confiscatus*) may be said to come either from the Latine (*confiscare*) or the French (*confisquer. i. in publicum addicere.*) All these words are drawne from (*fiscus*) which originally signifieth a Hamper, Pannier, Basket, or Freile: but Metonymically the Emperours Treasure: because it was anciently kept in such Hampers, &c. And though our King keepe not his Treasure in such things: yet as the Romans said, that such goods as were forfeited to the Emperours Treasure for any offence, were *bona confiscata*: so doe wee thoe that are forfeited to our Kings Exchequer. See more of these goods confiscate, in Stawnsf. *pl. cor. lib. 3. cap. 24.*

Conge d'eslire (*venia elegendi*) is very French, and signifieth in our common law, the Kings Permission royall, to a Deane and Chapter in time of vacation, to chuse a Bishop: or to an Abbey or Priorie of his owne foundation, to chuse their Abbot or Prior, *Fitzb. nat. br. fol. 169. B. 170. B. C. &c.* Touching this matter, *M. Gwin* in the Preface to his Readings saith, that the King of England, as soveraigne Patron of all Arch-bishopricks, Bishopricks, and other Ecclesiasticall Benefices, had of ancient time, free appoinement of all Ecclesiasticall Dignities, whensoever they chanced to be voide: investing them first (*per baculum & annulum*) and afterward by his Letters Patents: and that in proceffe of time he made the Election over to others, under certaine formes and conditions: as namely, that they should at every vacation before they chuse, demand of the King (*congè d'eslire*) that is, License to proceed to Election, and then after the Election, to crave his royall assent, &c. And farther he affirmeth by good prooffe out of common Law Bookes, that King *John* was the first that granted this, and that it was afterward confirmed by *Westm. pri. ca. 1.* which statute was made, *anno 3. Ed. pri.* And againe by the statute,

(*Articuli cleri*) *ca. 2.* which was ordained, *anno 25. Ed. 3. statuto tertio.*

Congeable, commeth of the French) *conge. i. venia*) It signifieth in our common law, as much as lawfull or lawfully done; as the entry of the Disseisee is *Congeable*, *Littleton, fol. 91. in meo.*

Consissance. See *Cognizance.*

Conizour, alias *cognizour* (*recognitor*) commeth of the French (*cognoistre. i. cognoscere, cernere*) and is used in the passing of Fines for him that doth acknowledged the Fine; and the Conizee is he, to whom it is acknowledged, *West. parte 1. symbol. l. 2. sect. 49. & parte 2. titulo. Fines sectio. 114.* See *Recognizour.*

Conjuration (*conjuratio*) is the very French word drawne from the Latine; which, as it is compounded of (*con & juro*) so it signifieth, a compact or plot, made by men combining themselves together by oath or promise, to doe some publicke harme. But in our common law, it is especially used for such as have Personall conference with the devill or evill Spirit, to know any secret, or to effect any purpose, *anno 5. Elizab. cap. 16.* And the difference that I have observed (how truly, let those judge that be better skilled in these matters) betweene conjuration and witchcraft, is because the

the one seemeth, by prayers and invocation of Gods powerfull names, to compell the devill, to fa. or doe what he commandeth him: the other dealeth rather by a friendly and voluntarie conference or agreement betweene him or her and the devill or familiar, to have her or his desires and turnes served in lieu of bloud, or other gift offered unto him, especially of his or her soule. And both these differ from inchauntments or sorceries, because they are personall conferences with the Devill, as is said: but these are but medicines and ceremoniall formes of words (called commonly charmes) without apparition.

Consanguineo, is a writ, for the which see *Avo*: and see the *Register orig. De avo, proavo, & consanguineo, fo. 226. a.*

Conservatour of the truce and safe conduicts (*conservator induciarum & salvorum regis conductuum*) was an officer appointed in every port of the Sea, under the Kings letters patents, and had 40. pound for his yearely stipend, at the least. His charge was to enquire of all offences done against the Kings truce and safe conduicts, upon the maine Sea out of the Countries, and out of the Franchises of the Cinque ports of the King, as the Admirals of Custome were wont

and such other things as are declared, *anno 2. H. 5. cap. 6.* Touching this matter you may reade another statute. *anno 4. H. 5. cap. 7.*

Conservatour of the Peace (*conservator vel custos pacis*) is he that hath an especiall charge by vertue of his office, to see the Kings peace kept. Which peace learned *M. Lambard* defineth, in effect, to be a with-holding or abstinence from that injurious force and violence, which boysterous and unruly persons are in their natures prone to use toward others, were they not restrained by lawes and feare of punishment. Of these conservators he farther saith thus: that before the time of King *Edward* the third, who first erected Justices of peace, there were sundrie persons, that by the common lawe had interest in keeping of the peace. Of those some had that charge as incident to their offices, which they did beare, and so included within the same, that they were never the lesse called by the name of their office onely: some others had it simply as of it selfe, and were thereof named *custodes pacis*, wardens or conservators of the peace. The former and latter sort hee againe subdivideth. Which read in his *circinarcha. li. 1. cap. 3.*

Consideration, (*consideratio*) is that with us, which the Grecians called *συναλλαγμα*: that is, the materiall cause of a contract, without the which, no contract bindeth. This consideration is either expressed, as if a man bargain to give 20 Shillings for a Horse: or else implied, as when the law it selfe inforceth a consideration; as if a man come into a common Inne, and there staying sometime, taking both meat and lodging, or either for himselfe and his Horse: the law presumeth, that he intendeth to pay for both, though nothing be farther covenanted betweene him and his Host: and therefore if he discharge not the house, the Host may stay his Horse, *Fulb. par. tract. Contracts. fol. 6. a. b.*

Consistorie (*consistorium*) is a word borrowed of the Italians, or rather Lombards, signifying as much as (*prætorium*) or *tribunal. vocab. utriusq; jur.* It is used for the place of Justice in the Court Christian.

Convocation house (*domus convocationis*) is the house, wherein the whole Clergie is assembled, for consultation upon matters Ecclesiasticall in time of Parliament. And as the house of Parliament, so this consisteth of two distinct Houses: one called the higher convocation house, where the Archbishops and Bishops sit

severally by themselves: the other, the lower Convocation house, where all the rest of the Clergie are bestowed. See *Prolocutor*.

Consuance. See *Cognisance*.

Consuour. See *Cognizour*.

Consolidation (*consolidatio*) is used for the combining, and uniting of two Benefices in one. *Broke titulo. Union*. This word is taken from the Civill Law, where it signifieth properly an uniting of the possession, occupation, or profit with the propertie. For example, if a man have by Legacie *usum fructum fundi*, and afterward buy the propertie or fee-simple (as wee call it) of the heire, *hoc casu consolidatio fieri dicitur. §. 3. De usu-fructu in Institut.* See *Union*, and *Unitie of possession*.

Conspiracie (*conspiratio*) though both in Latine and French, it be used for an agreement of men, to doe any thing, either good or bad: yet in our Lawyers bookes, it is alway taken in the evill part. It is defined, *anno 34. Ed. pri. stat. 2.* to be an agreement of such as doe confeder or bind themselves by oath, covenant, or other alliance, that every of them shall beare and ayde the other, falsly and maliciously to indite, or falsly to move or maintain Plees, and also such as cause children within age, to appeale men of

of felonie, whereby they are imprisoned, and fore grieved : and such as retaine men in the Countries with liveries or feeſe, to maintaine their malicious enterpriſes. And this extendeth as well to the takers, as to the givers. And Stewards and Bayliſſes of great Lords, which by their ſegnorie, office, or power, undertake to beare or maintaine quarrels, plees, or debates that concerne other parties, then ſuch as touch the eſtate of their Lords, or themſelves, *anno 4. Ed. 3. cap. 11. an. 3. H. 7. ca. 13.* and of this ſee more, *ann. 1. H. 5. c. 3. & an. 18. H. 6. c. 12.* as alſo in the new booke of Entries. *ver. Conſpiracy.*

Conſpiracie, in the places before mentioned, is taken more generally, and is confounded with maintenance and champerty. But in a more ſpeciall ſignification, it is taken for a confederacie of two at the leaſt, falſely to endict one, or to procure one to be endicted of felony. And the puniſhment of conſpiracie, upon an endictment of felony, at the Kings ſuit, is that the partie attainted, leeſe his franke lawe, to the intent that hee be not empaneled upon Juries or Aſſiſes, or ſuch like employments, for the teſtifying of truth. And if hee have to doe in the Kings court, that hee make his Atturney : and that his

lands, goods, and chatels be ſeiſed into the Kings hands, his lands eſtreaped (if hee finde no better favour) his trees rased, and his body committed to priſon. *27. lib. aſſiſ. 59. Cromptons Juſtice of Peace, fol. 156. b.* This is called villanous judgement or puniſhment. See *Villanous Judgement*. But if the partie grieved ſue upon the Writ of Conſpiracie, then ſee *Fitzb. nat. br. f. 114. D. 115. I.* Conſpiracie may be alſo in caſes of leſſe weight. *Idem fol. 116. A. &c.* See *Franke Law*.

Conſpiratione, is a Writ that lyeth againſt conſpiratours. *Fitz. nat. br. fo. 114. d. Cromptons juſt. fo. 209.* See alſo the *Regiſt. fo. 134.*

Conſtable (*conſtabularius* vel *coveſtabulis*) is a Saxon word, compounded of (*cuning* or *cyng*) and (*ſtaple*) which doe ſignifie the ſtay and hold of the King. *Lamb. duties of Conſtables, nn. 4.* But I have heard it made heretofore of theſe two wordes, (*comes ſtabuli*) which ſeemeth to mee the more probable, becauſe we have this Officer from France as moſt others, and not from the Saxons. And *Tilius* in his commentaries (*de rebus Gallicis*) *li. 2. ca. de conſtabili*, hath the ſame etymologie, giving the reaſon thereof, (*quia præſt ſtabulo. i. equili regis*) which office is aun-
cient heere in England, and mentioned by *Braſton*, ſeeming

to answer him that was called (*tribunus celerum*) under the first Kings of Rome, and (*Magister equitum*) afterward. The Germans that inhabite the side of the river *Rhene*, note him by this title *die constosler*) and in counterfeit Latine (*constosclerus*) and in older time (*constafolarium*) that the Romans were wont to rearme) *assessorem iudicii*. And (as *Spiegelius* in his lexicon noteth, derive the word) *a stafolo comitis*, i. *gradu iudicii fiscalis*. For *stafel* in their language (as hee saith) signifieth a grees or steppe of a paire of staires. And thereupon (*stafelstein*) being a word used in their very ancient writings, signifieth as much as *Pretorium*. But a man many times may shew in this kinde more curiositie then discretion: as perhaps some will judge mee heere to have done. And therefore enough of this. This word is diversly used in our common law: first for the constable of England, who is also called Marshall. *Stamm. pl. cor. fol. 65.* of whose great dignitie and authoritie a man may finde many arguments and signes both in the statutes and chronicles of this Realme. His sway consisteth in the care of the common peace of the land, in deedes of armes, and matters of wars. *Lamb. ubi supra* with whom agreeth the *statut.*

anno 13. R. 2. ca. 2. statut. 1. Smith de Repub. Anglo. li. 2. ca. 25. Of this officer or Magistrate *M. Gwin* in the preface to his reading saith to this effect: The court of the Constable and Marshall determineth contracts touching deeds of armes out of the Realme, and handleth things concerning wars within the Realme, as combats, blasons of armory, &c. But it may not deale with battell in appeales, nor generally with any other thing that may bee tryed by the lawe of the Land. And reade *Fortescue ca. 32.* This office was belonging heeretofore to the Lords of certain manors, *jure feudi*: and why it is discontinued, see *Dyer fol. 258. m. 39.* Out of this high magistracie (saith *M. Lamberd*) were drawne these lower constables, which wee call constables of hundreds and franchises, and first ordained by the Statute of *Winchester, anno 13. Ed. 1.* which appointeth for the conservation of the peace, and view of armour, two constables in every hundred and franchise, which in latine are called *constabularii capitales*. And these be now a dayes called high constables: because continuance of time, and increase both of people and offences, hath againe under these made others in every towne called petit constables, in latine (*subconstabularios*) which

are of like nature, but of inferior authoritie to the other, as you may read at large in that learned mans Treatise before named. Of these also read *S. Thomas Smith lib. 2. cap. 22.* Beside these there bee officers of particular places called by this name; as constable of the Tower. *Stamf. pl. cor. fol. 152. & anno 1. H. 4. cap. 13. Stoms annals pa. 812. jurisdict. fol. 132.* constable of the Exchequer. *anno 51. H. 3. statute 5.* Constable of Dover Castle. *Camdeni Britan. pa. 239. Fitzb. nat. br. fo. 240.* otherwise called *castellane.* *West. i. cap. 7. anno 3. Ed. 1.* But these be *castellani* properly, as Master *Lamberd* noteth, though conjoynd in name with the others. See the *Statute anno 32. H. 8. ca. 38. M. Manwood parte prima. cap. 13.* of his forest lawes maketh mention of a constable of the forest.

Consuetudinibus & servitiis, is a writ of right close, which lyeth against the tenant, that deforceth his Lord of the rent or service due unto him. Of this see more at large the *Old nat. br. fol. 77. Fitzb. eodem. fol. 151.* and the *Register orig. fol. 159.*

Consultatio, (*consultatio*) is a Writ whereby a cause, being formerly removed by prohibition from the ecclesiasticall court, or court Christian, to the Kings Court, is returned thither a-

gaine. For the Judges of the Kings court, if upon comparing the libell with the suggestion of the party, they do find the suggestion false or not proved, and therefore the cause to be wrongfully called from the Court Christian; then upon this consultation or deliberation, they decree it to be returned againe, whereupon the writ in this case obtained, is called a consultation. Of this you may reade the *Register orig. fol. 44, 45. &c. usq; fol. 58. Old nat. br. fol. 32. & Fitz. eodem fol. 50.*

Contentement, (*contentementum*) seemeth to bee the free hold land, which lyeth to a mans tenement or dwelling house, that is in his owne occupation. For in *Magna charta, cap. 14.* you have these words: A free man shall not be amerced for a small fault, but after the quantitie of the fault: and for a great fault, after the manner thereof, saving to him his contentment or free hold. And a Merchant likewise shall be amerced saving to him his merchandies: and any other villaine then owes, shall be amerced saving his waynage, if he take him to our mercy. And *Bracton, lib. 3. tracta. 2. cap. 1. nu. 3.* hath these words: *& sciendum, quod miles & liber homo non amerciabitur, nisi secundum modum delicti, secundum quod delictum*

fuit magnum vel paruum, & salvo contentamento suo: mercator vero non nisi salva merchandiza sua, & villanus nisi salvo wmiagio suo: which mercy seemeth to have beene learned from the civile lawe: whereby (executio non potest fieri in boves, aratra, aliave instrumenta rusticorum. l. executores & Authen. Agricultores. Co: que res pign. obliga. nec in stipendia, arma & equos militum. l. stipendia. Co. de executio. rei judica. & ibi doctores nec in libros scholarium. glos. in l. Nepos Proculo. verbo. dignitate. π de verbo. significa. Que tamen rusticorum, militum & scholarium privilegia circa executionem vera esse, & catenus obtinere intelligenda sunt, quatenus alia bona habent. Joh. Eimericus in processu judicario: esp. de Executione senten. 79. num. 11.

Continuance, seemeth to bee used in the common law, as *pro rogatio* is in the civile lawe. For example: Continuance untill the next assise. *Fitz. nat. br. fol. 154, F. and 244. D.* in both which places it is said, that if a record in the treasure bee alledged by the one partie, and denyed by the other: a (*certiorari*) shall be sued to the Treasurer, and the chamberlaine of the Exchequer: who, if they certifie not in the Chauncerie, that such a record is there, or that it is likely to be in the Tower: the King

shall send to the Justices repeating the (*certificate*) and will them to continue the assise. In this signification it is likewise used by *Kitchin. fol. 202. & 199.* and also *anno 11. H. 6. cap. 4.*

Continuall claime (*continuum clameum*) is a claime made from time to time. Within every yeare and day, to Land or other thing, which in some respect wee cannot attaine without daunger. For example, if I be disseised of land, into which, though I have right unto it, dare not enter for feare of beating: it behooveth me to hold on my right of entry to the best opportunity of me & mine heire, by approaching as neere it I can, once every yeare, as long as I live: and so I save the right of entry to mine heire. *Termes of Law.* Againe, if I have a slave or villeine broken from me, and remaining any where within the auncient demeasne of the King, being in the hands of the King, I cannot maintaine the writ *de nativo habendo*, as long as hee continueth there: but if I claime him within the yeare and the day, and so continue my claime, until I can find him within that compasse: I may lawfully lay hold of him as mine owne. *Fitz. nat. br. fol. 79.* See more in *Listleton, verbo. Continuall claime.* And the new Booke of Entries. *Ibid. and Fleta, lib. 6. cap. 53.*

Contract (*contractus*) is a covenant or agreement with a lawfull consideration or cause. *West. parte prim. symbol. lib. 1. Sect. 10. and lib. 19. π. de verbo. Significa.* with other places, it is thus defined: *Contractus est negotium inter duos pluresve data operagestum, ut vel uterque invicem; vel alteruter obligetur.* Who so will thoroughly examinethe difference betweene this and (*pañum*) and such other words something like in signification: let him search the Civilians, and hee shall find worke both pleasant and profitable, and well fitting the common law also.

Contra formam collationis, is a writ that lieth against an Abbot, or his successor, for him, (or his heire) that hath given land to an Abbey, to certaine good uses, and findeth that the Abbot or his successor hath made a Feoffment thereof, with the assent of the tenants, to the disherison of the house and Church. This is founded upon the statute of *West. 2. cap. 41.* And of this see the *Regist. orig. fol. 238.* and *Fitzh. nat. br. fol. 210.* And note that the Author of the *Termes of law* saith, that this is not brought against the tenant or alienee.

Contra formam feoffamenti, is a writ that lyeth for the heire of a tenant infeofed of certaine lands or tenements, by charter of Feof-

ment of a Lord, to make certaine services and suits to his Court, and is afterward distreined for more, than is contained in the said charter, *Reg. orig. fo. 176. Old nat. br. fol. 162.* and the *Termes of the Law.*

Contributions facienda, is a writ that lieth in case where more are bound to one thing, and one is put to the whole burthen, *Fit. nat. br. fol. 162.* bringeth these examples: If tenants in common or joynt, hold a Mill (*pro indiviso*) & equally take the profits thereof, the Mill falling to decay, and one, or more of them, refusing to contribute toward the reparation thereof, the rest shall have this writ to compell them. And if there be 3. coparceners of land, that owe suite to the Lords Court, and the eldest perform the whole: then may she have this writ to compell the other two to a contribution of the charge, or to one of them, if one onely refuse. The *Old nat. br.* frameth this writ to a case, where one only suit is required for land, & that land being sold to divers, suit is required of them all, or some of them by distresse, as intirely, as if all were still in one, *fo. 103.* See the *Reg. orig. fol. 176.*

Controller (*contrarotulator*) cometh of the French (*contrerouleur*. i. *anti-graphus*, *græcè ἀντιγραφίς*) which in Rome was used for him, *cui id muneris injunctum erat*,

ut observaret pecuniam, quam in usum Principis vel civitatis collegerant exactores. Budens in annota. prio. in pand. tit. De officio quaestoris. In England wee have divers officers of this name: as Controller of the Kings house, *pl. cor. fol. 52. & anno 6. H. 4. cap. 3.* Controller of the Navie, *anno 35. Elizabeth, cap. 4.* Controller of the Custome, *Cromptons Jurisd. fol. 105.* Controller of *Calis*, *anno 21. Rich. 2. cap. 18.* Controller of the Mint, *anno 2. H. 6. cap. 12.* Controller of the Hamper, (*Contrarotulator Hamperii*) which is an officer in the Chancerie attending on the Lord Chancellor, or Keeper daily in the Terme time, and dayes appointed for sealing. His office is to take all things sealed from the Clerke of the Hanaper, inclosed in bags of Lether, as is mentioned in the said Clerkes office, and opening the bags, to note the just number, and especiall effect of all things so received, and to enter the same into a speciall Booke, with all the duties appertaining to his Majestie, and other officers for the same, and so chargeth the Clerke of the Hanaper with the same. Controller of the Pipe, (*contrarotulator Pipe*) who is an officer of the Exchequer that writeth out summons twice everie yeare to the Sheriffes, to levie the Fermes and debts of the

Pipe, and also keepeth a contrarolment of the Pipe. *Controller of the Pell*, is also an officer of the Exchequer, of which sort there be two, *viz.* the two Chamberlaines Clerkes, that do, or should keepe a contralment of the Pell of receites and goings out. And in one word, this officer was originally one, that tooke notes of any other officers accounts or receipts, to the intent to discover him, if he dealt amisse, and was ordained for the Princes better securitie, howsoever the name sithence may be in some things otherwise applied. To the prooffe whereof, you may take these few words out of *Fleta, li. 1. cap. 18. in prim. Qui cum fuerint ad hoc vocati & Electi*, (speaking of the Coroners) *attachiari precipiant appella: qui & capitula corona in comitatu presentent: contra quos vicecomes loci habeat contrarotulum, tam de appellis & inquisitionibus, quam alius officium illud tangentibus, &c.* Which (*contrarotulum*) is nothing else, but a parallel of the same quality and contents with the *πρωτότυπον*, or originall. This also appeareth by *anno 12. Ed. 3. cap. 3.* And this signification it seemeth to have also in France. For there the King hath his receivers of Tails in every Province, and Controllers, *qui ad majorem fidem susceptoribus accedunt, describuntq;*

in tabulis qua colliguntur. *Gregorii syntag. li. 3. ca. 6. nu. 6.*

Conventione, is a writ, that lyeth for the breach of any covenant in writing, *Register orig. fol. 185. Old nat. br. fol. 101. Fitzh. calleth a writ of covenant, nat. br. fol. 145.* who divideth covenants into personall and reall, making a sufficient discourse of them both: as also, how this writ lyeth for both.

Convict, (*comictus*) is he that is found guiltie of an offence by the verdict of the Jurie, *Stawf. pl. cor. fo. 186.* yet *Master Crompton* out of Judge *Dyers Commentaries* 275. saith, that conviction is, either when a man is outlawed, or appeareth and confesseth, or else is found guilty by the Inquest, *Crompt. Just. of peace, fo. 9. a.* Conviction and attainder are often confounded, *li. 4. fo. 46. a. b.* See *Attaint*.

Coparceners, (*participes*) be otherwise called *Parceners*: and in common law, are such as have equall portion in the Inheritance of their Ancestour; and, as *Lilieton* in the beginning of his third Booke saith, *Parceners* be either by law, or by custome. *Parceners* by law, are the issue Female, which (no heire Male being) come in equalitie to the lands of their Ancestours, *Braet. lib. 2. cap. 30.* *Parceners* by custome, are those that by custome

of the countrey, challenge equall part in such lands: as in *Kent* by the custome called (*Gavel Kind.*) This is called *Adequatio* among the *Fendists. Hot. in verbis fenda. verbo. Adequatio.* And among the *Civilians* it is termed *familie erciscunda judicium, quod inter coheredes ideo redditur, ut & hereditas dividatur, & quod alterum alteri dare facere oportebit, praestetur, Hotoman.* Of these two you may see *Lilieton* at large in the first and second chapters of his third Booke, and *Britton, cap. 27.* intituled, *De heritage divisibile.* The Crowne of England is not subject to Coparcinory, *anno 25. H. 8. ca. 22.*

Copie, (*copia*) commeth from the French (*copia. i. le double de quelque escripture, latine descriptio, graec. ὑπεραρον*), and signifieth in our common language, the example of an originall writing; as the copie of a Charter, the copie of a Court roll.

Copia libelli deliberanda, is a writ that lyeth in case where a man cannot get the copie of a Libell at the hands of the Judge Ecclesiasticall, *Reg. orig. fo. 51.*

Copie-hold, (*tenura per copiam rotuli curie*) is a tenure, for the which the tenant hath nothing to shew, but the copie of the Rolls made by the Steward of his Lords court. For the Steward, as hee inrolleth, and maketh Remem-

membrances of all other things done in the Lords court : so hee doth also of such tenents, as be admitted in the Court, to any parcell of land or tenement belonging to the Manor : and the transcript of this, is called the Court roule : the copie whereof the tenent taketh from him, and keepeth as his onely Evidence, *Coke, li. 4. fol. 25. b.* This tenure is called a Base tenure, because it holdeth at the will of the Lord. *Kitchin, fol. 80. cap.* Copy-holds. *Fitzb. nat. br. fol. 12. B. C.* who there saith, that it was wont to be called tenure in villenage, and that this Copie-hold is but a new name. Yet is it not simply at the will of the Lord, but according to the custome of the Manor. So that if a Copie-holder breake not the custome of the Manor, and thereby forfeit his tenure, he seemeth not so much to stand at the Lords courtesie for his right, that he may be displaced hand over head at his pleasure. These customes of Manor be infinite, varying in one point or other, almost in every severall Manor. First, some Copy hold is fineable, and some certaine : that which is fineable, the Lord rateth at what fine or income he pleaseth, when the tenent is admitted unto it : that which is certaine, is a kind of inheritance, and called in many places

Custumarie : because the tenent dying, and the hold being void, the next of the bloud paying the custumarie fine, as two Shillings for an Acre or such like, may not bee denyed his admission. Secondly, some Copy-holders have by custome, the wood growing upon their owne land, which by Law they could not have. *Kitchin ubi supra.* Thirdly, Copy-holders, some be such as hold by the verge in ancient Demesne : and although they hold by Copy, yet are they in account a kinde of Free-holder. For if such a one commit Felonie, the King hath (*annum, diem, & vastum*) as in case of Free-hold. Some other hold by common tenure, called meere Copy hold : and they committing Felonie, their land escheateth to the Lord of the Manor forthwith. *Kitchin, fol. 81. chap.* Tenents per verge in ancient Demesne. What ancient Demesne is, see in the right place. See Tenent by Copie of Court roule. This is the land that in the Saxons time, was called Folk-land. *Lamberd, explicat.* of Saxon words, verbo, *Terra ex scripto, West. parte prim. symb. li. 2. Sect. 646.* defineth a Copie-holder thus : Tenent by copie of Court roule, is he which is admitted tenent of any lands or tenements within a Manor, that time out of the memory of man,

by

by use and custome of the said manor, have beene demisable, and demised to such, as will take the same in fee, in fee-taile, for life, yeares, or at will, according to the custome of the said manor, by copy of courtrolle of the same manor, where you may reade more of these things.

Coraage (*coraagium*) is a kinde of imposition extraordinary, and growing upon some unusuall occasion, and it seemeth to be of certaine measures of corne. For *corus tritici*, is a certaine measure of corne. *Bracton libro 2. ca. 16. nu. 6.* who in the same chapter, *nu. 8.* hath of this matter these words: *Sunt etiam quedam communes praestationes, quae servitio non dicuntur, nec de consuetudine veniunt, nisi cum necessitas intervenerit, vel cum rex venerit: sicut sunt bidagia, coraagia, & carvagia, & alia plura de necessitate & ex consensu communi totius regni introducta & quae ad dominum feudi non pertinent, & de quibus nullus tenetur tinentem suum acquietare, nisi se ad hoc specialiter obligaverit in charta sua, &c.*

Cordiner, commeth of the French (*Cordovannier*. i. *sutor calcearius*) a shoo-maker, and is so used in divers Statutes, as *anno 3. H. 8. cap. 10. & anno 5. ejusdem ca. 7.* and others.

Cornage (*cornagium*) commeth

of the French (*cor. i. cornu*) and in our common law, signifieth a kind of grand seargancy, the service of which tenure, is to blow a horne, when any invasion of the Northerne enemy is perceived. And by this many men hold their land northward, about the wall, commonly called the Pils wall. *Camden Britan. pag. 609.* hence commeth the word (*cornuari*) to blow a horne. *pupil. oculi, parte 5. ca. 22. in charta de Foresta.* This service seemeth to have proceeded from the Romans. For I find (*cornicularios*) mentioned in the civile law. *viz. li. 1. Cod. de officio diversis. Jud. 48. lege 3. & lib. 12. titulo de apparitoribus praefectorum praetorio, 53. lege 1. & 3.* where *Lucas de Penna* defineth them (*eos qui cornu faciunt excothias militares.* And *Brissolinus lib. 3. de verbo significat.* saith thus of them: (*bi militum quoddam genus fuisse, qui corniculo merabant, unde nomen habent.* Where it appeareth by him out of *Suetonius*, *Plinie*, and *Livie*, that the horn was an honour and reward given for service in war.

Cornertile. See *Guttertile.*

Corody (*corodium*) commeth of the Latine verbe (*corrodo*) and signifieth in our common Law, a summe of money or allowance of meate and drinke due to the King from an Abbey, or other house of Religion, whereof he is the founder, toward the reasona-

ble sustenance of such a one of his servants, being put to his pension, as hee thinketh good to bestowe it on. And the difference betweene a corrodie and a pension seemeth to be, that a corrody is allowed toward the maintenance of any the Kings servants, that liveth in the Abbey: a pension is given to one of the Kings chaplaines for his better maintenance in the Kings service, untill he may bee provided of a benefice. Of both these reade *Fitzb. nat. br. fol. 230, 231, 233.* who there setteth downe all the corrodies and pensions certaine, that any Abbey, when they stood, was bound to performe unto the King. There is mention also of a corrody in *Stann. prerogative 44.* And this seemeth to be an ancient law. For in *Westm. 2. cap. 25.* it is ordained, that an assise shall lie for a corrody. It is also apparent by the Statute *anno 34. & 35. H. 8. cap. 16.* that corrodies belonged some time to Bishops from Monasteries: and by the new termes of Law, that a corrody may be due to a common person by graunt from one to another, or of common right, to him that is founder of a religious house, not holden in franke almoine. For that tenure was a discharge of all corrodies in it selfe. By which booke it appeareth also, that a corrody is either

certaine or uncertaine, and that it may be for life, yeares, in taile, or in fee.

Corodio habendo, is a Writ, whereby to exact a corody of any Abbey or religious house. See *Corodie*, See the *Register originall fol. 264.*

Coronatore eligendo, is a Writ which after the death or discharge of any coroner, is directed to the Shyreve out of the Chancery, to cal together the free holders of the Countie, for the choise of a new Coroner, to certifie into the Chancerie, both the election, and the name of the partie elected, and to give him his oath. See *Westm. 1. c. 10.* and *Fitzb. nat. br. fol. 163.* and the *Register orig. fol. 177.*

Coroner (coronator) is an ancient officer of this land, so called, because he dealeth wholly for the King and Crowne. There be foure of them commonly in every countie, and they are chosen by the freeholders of the same upon writ, and not made by Letters Patents. *Crompt. Jurisd. fo. 126.* This officer, though now he be some inferiour Gentleman, that hath some smattering in the Law: yet if wee looke to the statute of *Westm. 1. cap. 10.* wee shall finde, that hee was wont, and ought to bee, a sufficient man: that is, the most wise and discreet Knight, that best will and may

may attend upon such an office. Yea, there is a writ in the *Register*, *Nisi sit miles*, fo. 177. b. whereby it appeareth, that it was sufficient cause to remove a Coroner chosen, if hee were not a Knight, and had not a hundred Shilings rent of Freehold. And the Lord Chiefe Justice of the Kings Bench, is the Sovereigne Coroner of the whole Realm in person. i. wheresoever hee remaineth, *libro assisarum* f. 49. 5. coron. *Coke*, li. 4. ca. de Wardens, &c. of the Sadlers, fo. 57. b. His office especially concerneth the Plees of the Crowne: But if you will reade at large, what anciently belonged unto him: reade *Bract*. li. 3. tra. 2. ca. 5. de officio coronatorum circa homicidium: and ca. 6. de officio coronatoris in thesauris inventis: and cap. 6. de officio coronatorum in raptu virginum: and ca. 8. de officio coronatorum de pace & plagis. And *Britton* in his first chapter, where he handleth it at large. *Fleta* also in his first booke, cap. 18. and *Andrew Horns* mirror of Justices, li. 1. c. 1. del office del coroners. But more aptly for the present times, *Stawns*, pl. cor. li. 1. ca. 51. Note there be certaine Coroners speciall within divers liberties, as well as these ordinary officers in every Countie: as the Coroner of the Verge, which is a certaine compasse about the Kings court, whom *Crompton* in

his *jurisd. fo.* 102. calleth the Coroner of the Kings house: of whose authoritie see *S. Edm. Cokes reports*, li. 4. fol. 46. a. b. And I know certaine charters belonging to Colleges, and other Corporations, whereby they are licensed to appoint their coroner within their own precincts. Farther of this office see also *Fitzh. nat. br.* fol. 76. A. B. *Sir Thomas Smith*, li. 2. ca. 21. de repub. *Anglo.* and *Lamb. Eirenarcha*, li. 4. ca. 3. pa. 380. And the office of the Coroner in Scotland, what it is, reade *M. John Skene de verbo*, signific. verbo. *Iter.*

Corporation (*Corporatio*) is that which the Civill law calleth *Universitatem*, or *Collegium*: A bodie Politicke authorized by the Kings Charter, to have a common Seale, a head Officer, one or more, and members able by their common consent, to grant, or to receive in law, any thing within the compasse of their Charter: even as one man may doe by Law all things, that by law he is not forbidden: and bindeth the Successours, as a single man bindeth his Executour or Heire. See *Brokes* his abridgement, *titulo Corporation*: and the new Termes of Law, *Eodem.*

Corpus cum causa, is a writ issuing out of the Chancerie, to remove both the bodie and

the record touching the cause of any man lying in execution, upon a judgement for debt into the Kings Bench, &c. there to lye untill hee have satisfied the judgement, *Fitzb. nat. br. fo. 251. E.*

Correſtor of the ſtaple, is an officer, or Clerke belonging to the Staple, that writeth and recordeth the bargains of Merchants there made, *anno 27. Ed. 3. ſtat. 2. cap. 22, & 23.* The Romans called them *Menſarior*.

Corruption of blood, is an infection growing to the ſtate of a man attainted of Felony or Treason, and to his iſſue. For as hee leſeth all to the Prince, or other Lord of the Fee, accordingly as his caſe is, ſo his iſſue cannot be heires to him, or to any other Anceſtor, of whom they might have claimed by him. And farther if he were noble, or a Gentleman before, hee and his children are made unnoble and ungente in reſpect of the father. New Termes of the Law.

Corſe preſent, are words borrowed from the French, ſignifying a Mortuarie, *anno 21. H. 8. ca. 6.* The true French is (*corps preſenté*) i. the bodie preſented or tendered. The reaſon why the Mortuarie is thus alſo termed, ſeemeth to be, for that where a Mortuarie was wont to be due, the bodie of the beſt Beaſt was according to the law or cuſtome,

offered or preſented to the Prieſt.

Corſelet, is a French word, ſignifying a little Bodie, in Latine (*corpuſculum*.) It is uſed with us, for an armour to cover the whole body, or trunke of a man, *anno 4, & 5. Ph. & Mar. cap. 2.* where with the Pikemen, commonly ſet in the front and flanks of the battell, are armed, for the better reſiſtance of the enemies assaults, and the ſurer guard of the Gunners placed behind, or within them, being more ſlightly armed, for their ſpeedier iſſuing in and out to diſcharge their Peeces. See *Barrets* diſcourſe of Warre, li. 3. dialog. 2.

Cofeuage, (*cognitione*) is a writ, that lyeth where the Treſaile (that is, *Tritavus*, the father of the Beſaile, or of the great Grandfather) is ſeiſed in his Demefn, as of Fee, at the day of his death, of certaine lands or tenements, and dyeth: and then a ſtranger entreth and abareth. For then ſhall his heire have this writ of *Cofeuage*: the forme whereof ſee in *Fitzb. nat. br. fo. 221.* Of this alſo reade *Britton* at large, ca. 89.

Cofering, is an offence unnamed, whereby any thing is done guilefully in, or out of contracts, which cannot be fitly termed by any eſpeciall name, *weſt. parte 2. Symbolaogr. titulo, Indiſtments. ſect. 68.* It is called *ſtellionatus* in the civill Law of (*Stellio*). the beaſt

beast, which is *lacerta genus rersutissimam*, as Cujacius in his *paratiles* calleth it, and, *quo nullum animal homini invidet fraudulentius*. Plinie, li. 3. ca. 10.

Cotage, (*cotagium*) is a house without land belonging unto it. *anno 4. Ed. pri. statut. primo*. And the inhabitant of such a house is called a *Cotager*. But by a later statute, no man may build a *Cotage*, but he must lay 4. Acres of ground unto it, 31. Eli. ca. 7.

Cote, is a kind of reffuse wooll clung or clotted together, that it cannot be pulled asunder, *anno 13. R. 2. stat. 1. cap. 9.* It signifieth also as much as *Cotage*, in many places, as also it did among the Saxons, *Verstegan* in his *Restitut. of decayed intelligence in antiquities*.

Covenable, (*rationabilis*) is a French word, signifying, fit or convenient, or futeable, covenably endowed, *anno 4. H. 8. ca. 12.* it is anciently written (*convénable*) as in the statute, *an. 27. Ed. 3. stat. 2. cap. 17.* and *bonitatem*.

Covenant, *conventio*, is the consent of two, or more in one selfe thing, to doe, or give somewhat, *West. parte 2. symbol. li. 1. sect. 4.* It seemeth to be as much as (*pactum*, *conventum*) with the Civilians, which you reade often times in *Tullie. Pactum conventum, quod et vulgo vestitum vocant, opponitur undo pacto, velut ab omni juris solennitate destituto. Hujus exempla*

ponere difficile esse fasen existimavit. Conventum autem, quod vestitur, aut re, aut verbis, aut literis, aut contractus coherentia, aut rei intervenitu. Oldendorpius. And covenant in this signification, is either a covenant in law, or a covenant in fact, *Coke, li. 4. Nokes case, fol. 80.* or covenant expresse, and covenant in law, *idem. li. 6. fo. 17. a.* Covenant in law is that, which the law intendeth to be made, though in words it be not expressed: as if the lessour doe demise and grant, &c. to the Lessee for a certaine terme, the Law intendeth a covenant of the Lessers part, that the Lessee shall, during his whole terme, quietly enjoy his Lease against all lawfull encumbrance. Covenant in fact, is that which is expressly agreed betweene the parties. There is also a covenant meerly personall, and a covenant reall; *Fitzh. nat. br. fo. 145.* And he seemeth to say, that a covenant reall is, whereby a man tyeth himselfe to passe a thing reall, as land or tenements, as a covenant to levie a Fine of land, &c. a covenant meerly personall of the other side is, where a man covenanteth with another by deed, to build him a house, or any other thing, or to serve him, or to infeoffe him, &c. Covenant is also the name of a writ, for the which see *Conventions. Instru-*

ments of covenants, you may see good store in *West. parte. i. Symbolog. lib. 2. sectio 100.* See also the new booke of Entries, verbo, *Covenant.*

Covent, (*conventus*) signifieth the society or fraternity of an abbie or priorie, as (*societas*) signifieth the number of fellowes in a Colledge. *Bracton. lib. 2. cap. 35.* It commeth of the French (*convient i. canobium.*)

Coverture, is a French word signifying any thing that covereth, as apparell, a coverlet, &c. and deduced from the verb (*con-vir. i. tegere.*) It is particularly applyed in our common Lawe, to the estate and condition of a married woman who by the lawes of our Realme, is in (*potestate viri*) and therefore disabled to contract with any, to the prejudice of her self or her husband, without his consent and privity; or at the least, without his allowance and confirmation. *Brooke hoc tit. per totum.* And *Bracton* sayth, that *omnia que sunt uxoris, sunt ipsius viri, nec habet uxor potestatem sui, sed vir. li. 2. cap. 15.* and that (*vir est caput mulieris*) *li. 4. cap. 24.* and againe, that in any law matter, *sine viro respondere non potest, li. 5. tract. 2. cap. 3.* and *tract. 5. cap. 23. ejusdem libri,* hee hath words to this effect: *vir & uxor sunt quasi unica persona: quia caro una & sanguis unus. Res licet*

sit propria uxoris, vir tamen ejus custos, cum sit caput mulieris, and lib. 1. cap. 10. nu. 2. Uxores sunt sub virga viri. And if the husband alienate the wifes land, during the marriage, shee cannot gaine say it during his life. See *Cui ante divortium*, and *Cui in vita.*

Covine, (*convina*) is a deceitfull assent or agreement between two or more, to the prejudice or hurt of another. New termes of law. It commeth of the French verbe (*convenancer. i. depascisci.*) or rather (*convenir. i. convenire.*)

Cowcher, signifieth a Factour that continueth in some place or Countrey for trafique. *umo 37. Ed. 3. cap. 16.* It is used also for the generall booke, into which any Corporation entreth their particular acts for a perpetuall remembrance of them.

Compte, commeth of the French (*compte. i. subductus, computatio, ratio*) or of *comte. i. narratio.*) It signifieth as much as the originall declaration in a proces, though more used in reall actions then personall, as declaration is rather applyed to personall then reall. *Fitzh. nat. br. fol. 16. A. 60. D. Pl. 71. A. 191. E. 217. A. (Libellus)* with the Civilians comprehendeth both. And yet count and declaration be confounded sometimes; as count in debt. *Kitchin. fol. 281.* count or declaration in appeale. *pl. cor. fol. 78.*

Count in trespasse, *Britton, ca. 26.*
 Count in an action of Trespasse
 upon the case for a slander, *Kier.
 fol. 252.* This word seemeth to
 come from *France* and *Normandy.*
 For in the *grand Coutumarie, ca.*
64. I find (*Comurs*) to be those,
 which a man setteth to speake
 for him in court, as advocates: and
cap. 63. (*Pledours*) to be another
 sort of spokes men, in the nature
 of Attorneys, for one, that is him-
 selfe present, but suffereth ano-
 ther to tell his tale. Where also
 in the 65. chapter, Atturney is
 said to be he, that dealeth for
 him that is absent. See this text
 and glosse upon those 3. chapters.
Countours (by *Horn* in his *Mirror*
 of *Iustices, li. 2. ca. Des loyers*) are
 Sergeants skilfull in the law of
 the Realme, which serve the
 common people, to pronounce
 and defend their actions in judge-
 ment for their fee, when occasion
 requireth: whose duty, if it be as
 it is there described, and were
 observed, men might have much
 more comfort of the Law then
 they have.

Countenance, seemeth to be u-
 sed for credit or estimation, *Old
 nat. br. fo. 111.* In these words: Al-
 so the attaint shall be granted
 to poore men that will sweare,
 that they have nothing whereof
 they may make Fine, saving their
 countenance, or to other by a
 reasonable Fine. So is it used, an-

no 1. *Ed. 3. stat. 2. cap. 4.* in these
 words: Sheriffes shall charge the
 Kings debtors with as much as
 they may levie with their oathes,
 without abating the Debtors
 countenance.

Compter (*computatorium*) see-
 meth to come of the Latine (*com-
 putare*) or the french (*compter.*) For
 we use it for the name of a prison,
 whereinto, he that once slippeth,
 is like to account ere he get out.

Counterplee, is compounded of
 two French words (*contre. i. con-
 tra, adversus*) and (*pleder. i. causam
 agere.*) It signifieth properly in
 our common Law, a replication
 to (*aydeprie.*) For when the re-
 nent by courtesie, or in dower,
 prayeth in ayde of the King,
 or him in the reversion, for his
 better defence: or else if a stranger
 to the action begun, desire to be
 received, to say what he can for
 the safeguard of his estate: that
 which the demandant alleageth
 against this request, why it should
 not be admitted, is called a coun-
 terplee. See *Broke tit.* And in this
 signification it is used, *anno 25.
 Ed. 3. stat. 3. cap. 7.* See also the
 new termes of the Law, and the
 statute, *anno 3. Ed. 1. cap. 39.*

County, (*comitatus*) signifieth
 as much as (*Shire*) the one descen-
 ding from the French, the other
 from the Saxons, both contrai-
 ning a circuit or portion of the
 realme, into the which the whole
 land

land is divided, for the better government thereof, and the more easie administration of justice. So that there is no part of the Kingdom, that lieth not within some County, and every County is governed by a yearly officer, whom we call a Sheriffe, which among other duties belonging to his office, putteth in execution all the Commandements and Judgments of the Kings courts, that are to be executed within that copasse, *Forseue cap. 24.* Of these Counties, there be foure of especiall marke, which therefore are termed Countie Palatines, as the Countie Palatine of Lancaster, of Chester, of Durham, and of Ely, *an. 5. Eliz. 1. ca. 23.* I read also of the Countie Palatine of Hexam, *an. 33. H. 8. ca. 10. Unde quere.* And this County Palatine is a Jurisdiction of so high a nature, that whereas all Pleees touching the life, or mayhem of man, called Pleees of the Crowne, be ordinarily held and sped in the Kings name, & cannot passe in the name of any other, the chiefe governors of these, by especiall charter from the King, did heretofore send out all writs in their owne name, and did all things touching Justice, as absolutely as the Prince himselfe in other Counties, only acknowledging him their Superiour and Severaigne. But by the statute *anno 27. H. 8. ca. 25.* this power is

much abridged, unto the which I refer the reader, as also to *Crom. Juris. fo. 137.* for the whole course of this court. Besides these Counties of both sorts, there be likewise Counties Corporate, as appeareth by the statute *anno 3. Ed. 4. 5.* And these be certaine Cities, or ancient Boroughs of the land, upon which the Princes of our Nation have thought good to bestow such extraordinary liberties. Of these the famous Citie of London is one, and the principall; *Yorke* another, *an. 32. H. 8. cap. 13.* the Citie of *Chester* a third, *an. 42. Eliz. cap. 15.* *Canterbury* a fourth, *Lamb. Eire. lib. 1. cap. 9.* And to these may be added many more: but I have onely observed out of the statutes & other writers, the County of the Towne of *Kingston upon Hull*, *anno 32. H. 8. cap. 13.* the County of the towne of *Haverford West*, *anno 35. H. 8. cap. 26.* and the Countie of *Litchfield*, *Cromptons Justice of peace. fo. 59. a.* Countie is in another signification used for the Countie court, which the Sheriffe keepeth every moneth within his charge, either by himselfe or his Deputie, *anno 2. Ed. 6. ca. 25. Crompt. Juris. f. 221. Bract. li. 3. c. 7. & l. 3. tract. 2. cap. 12.* Of these Counties or Shires one with another, there are reckoned in England 37. beside twelue in Wales. The

The word (*comitatus*) is also used for a jurisdiction or territory among the Feudists.

County court (*curia comitatus*) by *M. Lambert* is otherwise called (*comentus*) in his explication of Saxon words, and divided into two sorts: one retaining the generall name, as the County-court held every moneth by the Shyreve, or his deputie the under-shyreve, whereof you may read in *Cromptons Jurisd. fol. 231.* the other called the Turne, held twice every yeare, which see more at large in his place: and *Cromptons Jurisd. fol. 231.* This County court had in auncient times the cognition of these and other great matters, as may appeare by *Glanvile lib. 1. cap. 2. 3. 4.* by *Bracton* and *Britton* in divers places, and by *Fleta lib. 2. cap. 62.* But that was abridged by the Statute of *Magna charta. cap. 17.* and much more by *1. Ed. 4. cap. unico.* It had also, and hath the determination of certaine trespasses, and debts under forty shillings. *Britton. cap. 27. & 28.* what manner of proceeding was of old used in this Court, see *Fleta ubi supra.*

Courfitour. See *Curfetour.*

Court (*curia*) commeth of the French (*court*) which signifieth the Kings Palace or Mansion, as (*curtis*) doth among the Lombards. All these spring of the La-

tine (*curia*) which signifieth one of thirty parts, into which *Romulus* divided the whole number of the Romans: sometime also the Senat house, as appeareth by *Tully* in his Offices (*nihil est quod dignum nobis, aut in foro aut in curia agere possumus*: which in his oration (*pro Milone*) he calleth *Templum sanctitatis, amplitudinis mentis, consilii publici, caput urbis, &c.* Court, with us, signifieth diversly: as the house where presently the King remaineth with his ordinary retinue, & also the place where Justice is judicially ministred: of which you finde 32. several sorts in *M. Cromptons* book of *Jurisdictions* well described. And of them most bee courts of record: some be not, and therefore are accounted base courts in comparison of the rest. Beside these also there are Courts Christian. *Smith de repub. Anglor. lib. 3. cap. 9.* which are so called, because they handle matters especially appertaining to Christianitie, and such as without good knowledg in Divinity cannot be well judged of, being held heretofore by Archb. and Bishops, as from the Pope of Rome: because he chalenged the superioritie in all causes spirituall: but sithence his ejection, they hold them by the Kings authoritie (*virtute magistratus sui*) as the Admirall of England doth his Court. Where-

upon it proceedeth, that they send out their precepts in their own names, and not in the Kings, as the Justices of the Kings courts doe. And therefore as the appeale from these Courts did lye to Rome: now by the statute anno 25. H. 8. cap. 19. it lieth to the King in his Chancerie.

Court baron (curia baronis) is a Court that every Lord of a manner (which in auncient times were called Barons) hath within his owne precincts. Barons in other Nations have great Territories and jurisdiction from their Sovereignes: as may be proved out of *Cassianus de gloria mundi. parte 5. consideratio 56.* by *Vincemius de Franchis desceis. 211.* and many others. But here in England what they be, and have beene heretofore, see in *Baron*. Of this Court Baron you may reade your fill in *Kitchin*, that writeth a large Booke of it, and of a Court Leete. Sir *Edward Coke* in his fourth Booke of Reports, amongst his Copyhold cases. fol. 26. b. saith, that this Court is two after a sort: and therefore if a man having a manor in a Towne, and doe graunt the inheritance of the Copy-holders thereunto belonging unto another: this grantee may keepe a Court for the customarie tenants, and accept surrenders to the use of others,

and make both admittances and graunts: the other Court is of Free-holders, which is properly called the Court Baron, wherein the suters, that is, the Freeholders be Judges: whereas of the other the Lord or his Steward is Judge.

Court of Pypowders. See *Pypowders*.

Court of Requests (curia requestarum) is a Court of equitie, of the same nature with the Chancerie, principally instituted for the helpe of such petitioners, as in conscionable cases deale by supplication with his Majestie. This Court, as *M. Gwin* sayth, in the Preface to his Readings, had beginning from Commission first graunted by *Henry* the eight to the Masters of Requests: whereas before that time (by his opinion) they had no warrant of ordinary jurisdiction, but travelled between the King and the Petitioner by direction from the Kings mouth. But Sir *Julius Caesar* in a Tractate of his, painefully and very judiciously gathered from the Records of the same Court, plainly sheweth that this Court was 9. *Henrici septimi*, though then following the King, and not settled in any certaine place, neither swayed particularly by the Masters of Requests, (as now it is) but more at large by others of

of the Kings most Honourable Councell, whom he pleased to employ in this service. For *page* 148. of the said *Treatise*, you have the forme of the oath then ministred to those that were Judges in this Court : and *à pag. pri. usque ad pag. 46.* causes of divers natures, which in the said Kings dayes, were there handled and adjudged. This Court, as that right Honourable and Learned Knight, in a Brieve of his upon the same Court plainly proveth, was and is parcell of the Kings most Honourable Councell, and so alwayes called and esteemed. The Judges therof were alwayes of the Kings most Honourable Councell, appointed by the King to keepe his Councell board. The keeping of this Court was never tyed to any place certaine, but onely where the Councell sate, the suters were to attend. But now of late for the ease of suters, it hath beene kept in the White Hall at *Westminster*, and onely in the Terme time. It is a court of Record, wherein Recognizances are also taken by the Kings Councell. The forme of proceeding in this court, was altogether according to the processe of summarie causes in the Civill Law. The persons Plaintiffes and Defendants, were alwayes either priviledged, as officers of the Court, or their ser-

vants, or as the Kings servants; or as necessarie Attendants of them : or else where the Plaintiffes povertie, or meane estate was not matchable with the wealth or greatnesse of the Defendant : or where the cause meerely contained matter of Equitie, and had no proper remedie at the Common law : or where it was specially recommended from the King to the Examination of his Councell : or concerned Universities, Colleges, Hospitals, and the like. The causes where-with they deale, and whereof they judge, are of all sorts : as *Maritime*, *Ultra Marine*, Ecclesiasticall, Temporall ; But properly Temporall causes, and onely of the other sort, as they are mixt with Temporall. The manner of proceeding in the said Court, is first, by Privie Seale, Letters Missive, or Injunction, or Messenger, or Bond. Secondly, By Attachment. Thirdly, by Proclamation of Rebellion. Fourthly, by Commission of Rebellion. Fifthly, by Sergeant at Armes. The effect of the Defendants Appearance is, that hee attend *De die in diem* on the Councell, till hee have made his Answer to the Plaintiffes Bill, and bee licensed to depart upon caution *De judicio fisti & judicato*

solvendo, and constitution of his Attorney & Councell by name. The authoritie of this Court is such, as upon cause to graunt injunctions for barring the defendant from suing the Plaintiffe at the Common Lawe: and to stay the suite at the Common Lawe before commencement, and not to arrest the body of the Plaintiffe till further order be taken by the Kings Councell: and the execution of a Decree in this Court may be done, either by imprisonment of the person disobeying, being partie, or claiming, under the partie: or by levy of the summe adjudged upon his Lands.

Courtesie of England (*lex Anglia*) commeth of the French, (*Courtesie. i. benignitas, humanitas*) but with us hath a proper signification, being used for a tenure. For if a man marry an Inheritrice, that is, a woman seised of Land in fee simple, or fee taile generall, or seised as heire of the taile speciall, and getteth a childe of her that commeth alive into the world, though both it and his wife die forthwith, yet if she were in possession, shall he keepe the land during his life, and is called tenent *per Legem Angliae*, or by the courtesie of England. *Glawvil. lib. 7. cap. 18. Bracton. lib. 5. tracta. 5. cap. 30. nu.*

7, 8, 9. *Brietton. cap. 51. fol. 132. Fleta. li. 6. ca. 56. § lex quadam. Fitzh. nat. br. fol. 149. D. Littleton. li. 1. cap. 4.* It is called the law of England. *Westm. 2. ca. 3.* This is in Scotland called (*curialitas Scotiae. Skene de verbo, sign. verbo Curialitas*: who there saith that this is used in these two Realmes onely, and maketh a large discourse of the custome.

Contemtlange, is he that wittingly receiveth a man outlawed and cherisheth or hideth him. In which case hee was in auncient times subject to the same punishment, that the outlawe himselfe was. *Bracton. lib. 3. tracta. 2. cap. 13. nu. 2.* It is compounded of (*contem. i. knowne, acquainted, familiar, and (ntlangbe) an outlaw, as we now call him.*

Curtilage, alias curtillage (*curtilagium, alias curtilegium*) signifieth a garden, a yard, or a field, or piece of voide ground lying neere and belonging to a messuage, *West. parts 2. Symbolae. titulo Fines. sect. 26.* And so is it used *anno 4. Ed. 1. cap. unico anno 35. H. 8. cap. 4. & anno 39. Eliz. cap. 2. and Coke vol. 6. fol. 64. a.* Of this also *Lindwood* thus writeth. *Curtilegium vulgare nomen est, non omnium patriarum, sed certarum. Est enim curtis mansio vel manerium ad habitandum cum terris, possessionibus, & aliis emolumentis ad tale manerium pertinentibus*

*tibus, prout satis colligitur in libro
fendorum, titulo, De controversia
investiture, §. si quis de manso. Col.
10. Unde curtilegium dicitur locus
adjunctus tali curti, ubi leguntur
verba vel olera: sic dictus à (curtis)
& (lego legis) pro colligere. Thus
farre Limwood, titulo de decimis.
ca. Sancta. §. omnibus, verbo Curte-
legiorum. So that in effect, it is a
Yard or a Garden adjoyning to
a house.*

Creansour (creditor) commeth
of the French (*croyance. i. persua-
sio*) and signifieth him that trust-
eth another with any debt, be it
in money or wares, *Old nat. br.
fol. 67.*

Cranage, (cranagium) is a li-
bertie to use a Crane for the
drawing up of wares from the
vessels, at any creek of the sea or
wharfe, unto the land, & to make
profit of it. It signifieth also the
money paid and taken for the
same. *New Booke of Entries,
fol. 3. col. 3.*

*Creeke, (creca, crecca, vel cre-
cum)* seemeth to be a part of a
Haven, where any thing is lan-
ded or dis-burthened out of the
Sea. So that when you are out of
the Maine Sea, within the Ha-
ven, looke how many landing
places you have, so many Creeks
may be said to belong to that
Haven. See *Cromptons jurisdicti-
ons, fol. 110. a.* This word is
mentioned in the statute, as an-

no 5. *Eli. cap. 5.* and divers o-
thers.

Creast tile. See *Roose tile.*

Croft, (croftum) is a little close
or pisle joyned to a house, that
sometimes is used for a Hemp
ground, sometime for Corne,
and sometime for Pasture, as the
owner listeth. It seemeth to
come of the old English word
(*creast*) signifying handy-craft:
because such grounds are for
the most part extraordinarie
dressed and trimmed by the
both labour and skill of the
owner.

Croises, (cruce signati) be used
by *Britton, ca. 122.* for such as are
Pilgrims: the reason may be, for
that they weare the signe of the
Crosse upon their Garments. Of
these, and their Priviledges, reade
*Bracton, lib. 5. parte 2. cap. 2. &
parte 5. cap. 29.* and the *Grand
Customary of Normandy, cap. 45.*
Under this word are also signi-
fied, the Knights of the order of
Saint John of Jerusalem, created
for the defence of Pilgrims, *Gre-
gor. Syntagm. lib. 15. cap. 13.
& 14.*

Cuckingstoole, (tumbrells) is an
engine invented for the punish-
ment of Scolds and unquiet wo-
men, called in ancient time a
tumbrell, *Lamb. Eirenarcha, li. 1.
cap. 12. po. 62. in mco. Bracton*
writeth this word (*Tymborella.*)
Kitchin, where hee saith, that

every one having view of Frankpledge, ought to have a Pillorie and a Tumbrell, seemeth by a Tumbrell, to meane the same thing, *cap. Charge in Court leet. fol. 13. a.*

Cuth, oiber, uncuth (*privatus vel extraneus.*) These be old English words, not yet worne out of knowledge, for the which see Roger Hoveden, *parte poster. suorum annalium, fol. 345. a.*

Cudutlaghe. See *Contributlaghe.*

Cui ante divortium, is a writ, that a woman divorced from her Husband, hath to recover lands or tenements from him, to whom her husband did alienate them during the marriage: because, during the marriage, shee could not gaine say it, *Register orig. fol. 233. Fitzh. nat. br. fol. 204.*

Cuinage, is a word used for the making up of Tinne, into such fashion as it is commonly framed into for the cariage thereof into other places, *anno 11. H. 7. cap. 4.*

Cui in vita, is a writ of Entry, that a widow hath against him, to whom her Husband aliened her lands or tenements in his life time: which must containe in it, that during his life time, shee could not withstand it; *Regist. orig. fol. 232. Fitzh. nat. br. fol. 193.* See the new Booke of

Entries, *verbo, Cui in vita.*

Cuntey cuntey, is a kind of triall, as appeareth by Bracton in these words: *Negotium in hoc casu terminabitur per cuntey cuntey, sicut inter coheredes Bracton li. 4. tract. 3. cap. 18.* And againe, in the same place: *In brevi de recto negotium terminabitur per cuntey cuntey.* And thirdly, *lib. 4. tract. 4. cap. 2. Terminabitur negotium per breve de recto: ubi nec duellum, nec magna assisa, sed per cuntey cuntey omnino:* which in mine opinion is, as much as the ordinarie Jury.

Curfew, commeth of two French words (*couverir. i. tegere*) and (*feu. i. ignis.*) We use it for an Evening Peale, by the which, the Conqueror willed every man to take warning for the raking up of his fire, and the putting out of his light. So that in many places at this day, where a Bell customably is rung toward Bedtime, it is said to ring Curfew: *Stowes annals.*

Curia avisare vult, is a deliberation, that the Court purposeth to take, upon any point or points of a cause, before judgement be resolved on. For this, see the new Booke of Entries, *verbo, Curia avisare vult.*

Curia claudenda, is a writ, that lyeth against him, who should fence and close up his ground, if he refuse, or deferre to doe it, *Regist.*

Regist. orig. fol. 155. Fitzh. nat. br. fol. 127. See also the new Booke of Entries, *verbo, Curia claudenda.*

Cursiter (*clericus de cursu, vel cursista curie cancellarie*) is an officer or Clerke, belonging to the Chancerie, that maketh out originall writs, *anno 14. & 15. H. 8. ca. 8.* They be called Clerkes of Course, in the oath of the Clerks of the Chancery, appointed *anno 18. Ed. 3. stat. 5. ca. unico.* There be of these, 24. in number, which have allotted unto every of them, certaine Shires; into the which, they make out such originall writs, as are by the subject required, & are a Corporation among themselves.

Curteyn (*curtana*) was the name of King Edward the Saint his Sword, which is the first Sword that is caried before the Kings of this Land at their Coronation, *Mathew Parisiens. in Henrico tertio.* And I have heard say, that the point thereof is broken: which may argue on Emblem of Mercie.

Curtilage. See *Cartelage.*

Custode admittendo, & Custode amovendo, are writs for the admitting or removing of Gardians, *Reg. orig. in indice.*

Custom (*consuetudo*) is all one in signification with our common Lawyers and Civilians, being by them both accounted a

part of the law, *Consuetudo quoadque pro lege servatur* (saith Bracton) *in partibus ubi fuerit more utentium approbata. Longevi enim temporis usus & consuetudinis non est viliis auctoritas, li. 1. ca. 3.* It may be thus not unaptly defined: Custom is a law or right not written, which being established by long use, and the consent of our Ancestors, hath beene, and is daily practised: our Ancestors that is (*maiores,*) and those of our kindred that are *Ultra tritavum, lib. 4. §. parentem, π. de in jus vocando, l. ult. §. parentes, π. de gradibus & affini, & nominibus eorum.* So that allowing the father to be so much older than his sonne, as (*pubertas*) or the yeares of generation doe require, the Grandfather so much elder then him, and so forth *usque ad tritavum:* wee cannot say that this or that is a custome, except wee can justifie, that it hath continued so one hundred yeares. For *tritavus* must be so much elder then the party that pleadeth it: yet because that is hard to prove, it is enough for the prooffe of a custome by witnesses in the Common law, (as I have credibly heard if two or more can depose, that they heard their fathers say, that it was a custome all their time, and that their fathers heard their fathers also say, that it was likewise a custome in their time.

If it be to be proved by record, the continuance of a hundred yeares will serve. Custome is either generall, or particular: Generall I call that, which is current thorow *England*: whereof you shall reade divers in the *Doffor and Student, lib. pri. cap. 7.* very worthy to bee knowne. Particular is that, which belongeth to this or that countie, as *Gavelkind* to *Kent*, or to this or that Lord-ship, Citie, or Towne. Custome differeth from prescription, for that custome is common to more, and Prescription (in some mens opinton) is particular to this or to that man. Againe, Prescription may be for a farre shorter tyme then a Custome, viz. for five yeares, or for one yeare, or lesse. Example of five yeares Prescription you have in the levying of a Fine. For if a Fine duly levied of lands and tenements be not impugned within five yeares, it excludeth all claime for ever. And if man omit his continuall claime for a yeare and a day: then the tenent in possession prescribeth an immunitie against the entry of the Demandant and his heire, *Fitz. nat. br. fo. 79. Terms of the law, verbo, Continuall claime.* Out of our statutes you may have greater diversitie, which see collected in mine Institutes, *titulo de Usucapio: & longi tempo. prescript.* So that *Brissonijs*

in his 14. *de verbo signif.* seemeth to say truly, that Prescription is an Exception founded upon so long time run and past, as the law limiteth for the pursnit of any action. An example may be taken from those statutes, *anno 1. H. 8. cap. 4.* which enacteth, that in all action popular, information shall be made within three yeares after the offence committed, or else be of no force. Of like nature is the Statute, *anno 7. H. 8. ca. 3.* which in some cases maketh one yeares prescription sufficient against informations. Custome is also used for the tribute or tolle, that Merchants pay to the King for carying in and out Merchandise, *anno 14. Ed. 3. stat. 1. ca. 21.* in which signification it is latined (*Custuma*) Register orig. fo. 138. a, 129. a. And lastly, for such services, as tenants of a Manor owe unto their Lord: New booke of Entries, *verbo Custome.*

Customary tenants, (*tenentes per consuetudinem*) are such tenants, as hold by the custom of the Manor, as their speciall evidence. See *Copie-holds.*

Custos brevium, is the principall clerk belonging to the court of Common Pleas: whose office is to receive and keepe all the writs, and put them upon files, every retorne by it selfe, and at the end of every Terme to receive

of the Protonotaries all the Records of (*Nisi prius*) called the (*postea*). For they are first brought in by the Clerk of Assise of every circuit to the Protonotary that entred the issue in that matter, for the entering of the Judgement. And then doe the Protonotaries get of the Court peremptory day, for every party to speake what hee hath to alleage in arrest of Judgement: which day being past, he entred the Verdict and Judgement thereupon into the rols of the Court: and that done, he doth in the end of the Terme deliver over to the *Custos brevium*, all the Records of (*Nisi Prius*) which came to his hand that Terme: which received, he bindeth into a bundle and bestoweth them. The *Custos brevium* also maketh entry of the Writs of covenant, and the concord upon every Fine: and maketh forth exemplifications and copies of all Writs and Records in his office, and of all Fines levied. The Fines after they be ingrossed, the parts thereof are divided between the *Custos brevium* and the *Chirographer*: whereof the *Chirographer* keepeth alwayes with him the Writ of covenant and the note, the *Custos brevium* keepeth the concord and the foote of the fine, upon the which foot the *Chirographer* doth cause the Proclamations to bee endorsed,

when they bee all proclaimed. This Office is in the Princes gift.

Custos placitorum corone: *Bracton. l. 2. ca. 5* This seemeth to be all one with him, whom wee now call (*Custos rotulorum*) of this Officer I find mention in the Writ (*odio & atia*) *Regist. orig. fol. 133. b.*

Custos Rotulorum, is hee, that hath the custodie of the Rols or Records of the Sessions of Peace: and (as some thinke) of the commission of the Peace it selfe. *Lamb. Eirenach. li. 4. ca. 3. pa. 373.* He is alwayes a Justice of Peace and *Quorum*, in the Countie where he hath his Office, *Idem, eodem*, and by his Office hee is rather termed an Officer or Minister then a Judge: because the Commission of the Peace layeth, by expresse words this especial charge upon him: *quod ad dies & loca predicta, brevia, precepto, processus, & indictamenta predicta coram te & dictis sociis tuis venire facias. Idem, eodem.* where reade a competent tract of other things belonging to this Office.

Custos of the spiritualities (*custos spiritualitatis vel spiritualium*) is he that exerciseth the Spirituall or Ecclesiasticall Jurisdiction of any Dioces, during the vacancie of the See: the appointment of whom by the Canon Law ap-

pertaineth to the Dean and Chapter. *ca. ad abolendam Extra. Ne sede vacante aliquid innovetur.* But with us in England to the Arch-bishop of the Province by prescription. Howbeit, divers Deanes and Chapters (if *M. Gwin* say truely in the Preface to his Readings) doe challenge this by auncient Charters from the Kings of this Land.

Cutter of the tayles, is an officer in the Exchequer, that provideth Wood for the Tayles, and cutteth the summe paid upon them, and then casteth the same into the Court to be written upon.

D A

D*Ammage*, commeth of the French (*dam*) or (*damage*) signifying generally any hurt or hinderance that a man taketh in his estate: But in the Common Law, it particularly signifieth a part of that the Jurours be to enquire of, passing for the Plaintiffe or Demaundant in a Civill action, be it personall or reall. For after verdict given of the principall cause, they are likewise asked their consciences touching costs (which bee the charges of suite, called of the Civilians (*expense litis*) and dammages, which containe the hindrance that the Plaintiffe or

Demaundant hath suffered by meanes of the wrong done to him by the Defendant or Tenant.

Dane-guilt, Dane-gold, or Dane-gelt (*Danegeldum*) is compounded of (*Dane* and *gelt*. 1. *pecunia*) and was a Tribute layd upon our Auncestors of twelve pence for every Hide of Land through the Realme by the Danes, that once got the masterie of us, in regard (as they pretended) of clearing the Seas of Pyrates, which greatly annoyed our Land in those dayes. *Cambd. Britan.* 83. with whom agree the lawes of *Edward* set out by *M. Lamberd*, *ca. 11. Stow in his annals*, pag. 118. saith, that this tribute came to 40000. pounds by the yeare, and that it was releas'd by *Edw.* the Confessor. *The Author of the new Termes of Law* saith, that this tribute began in the time of King *Etheldred*, who being sore distressed by the continuall invasion of the *Dane*, to procure his peace, was compelled to charge his people with importable payments. For first he gave them at five severall payments 113000. pounds, and afterward granted them 48000. pounds yeerely. See *Roger Hoveden parte poster. suorum annalium in Henrico secundo fol. 344. a.*

Dareyn continuance. See *Continuance.* *Darein* is a corrupt word of

of the French (*dernier*. 1. *ultimus*.)

Darreyn presentment (*ultima presentatio*. See *Affise* or *Darreyn presentment*.)

Dates (*dactyli*) is the plumme or fruit of the tree in Latine called *palma*, in English the Date tree well knowne to most men by sight. And he that will farther understand the nature or diversities of this fruite, may repaire to *Gerards Herball. lib. 3. cap. 131*. They be numbred among Spices and Drugs to be garbled. 1. *Jacob. 19*.

Day (*dies*) is sometime used in the Law, for the day of appearance in Court, either originally, or upon assignation; and sometime for the returnes of Writs. For example, dayes in banke, be dayes set downe by Statute or order of the Court, when Writs shall bee returned, or when the partie shall appeare upon the Writ served. And of this you may reade the Statutes, *anno 51. H. 3. ca. 1. & 2. Marl. cap. 12. anno 52. H. 3.* and the Statute *de anno bissextili. anno 21. H. 3.* and lastly, *anno 32. H. 8. cap. 21*. To be dismissed without day, is to be finally discharged the Court. *Kitchin, fol. 193*. He had a day by the Rolle. *Kitchin fol. 197*. that is, he had a day of appearance assigned him. Day, Yeere, and waste. See *Dies, and yeare*.

Deadly feude (*feuda*) is a profession of an unquenchable hatred, untill we be revenged, even by the death of our enemy. It is deduced from the German word (*Feed*) which, as *Hotoman* saith, *in verbis feudalibus, modo bellum, modo capitales inimicitias significat*. This word is used, *anno 43. Eliz. cap. 13*.

Dead pledge (*mortuum vadium*) See *Mort gage*.

Deane, (*decanus*) is an Ecclesiasticall Magistrate, so called of the Greeke (*δυνα*) because hee hath power over ten *Canons* at the least. Howbeit, in *England* we use to call him a *Deane*, that is next under the *Bishop*, and chiefe of the Chapter ordinarily in a Cathedrall Church: and the rest of the Societie or Corporation wee call *Capitulum*, the Chapter. Bur this word how diversly it is used, read *Lindwood, titulo de judic. ca. pri. verbo Decani rurales*, where *Deane Rurals* are said to bee certaine persons that have certaine jurisdiction Ecclesiasticall over other Ministers and Parishes neere adjoyning, assigned unto them by the *Bishop* and *Archdeacon*, being placed and displaced by them. As there bee two foundations of Cathedrall Churches in *England*, the old, and the new (the new be those which *Henry* the eighth upon suppression of Abbeys transformed from

Abbot or Prior and Covent to Deane and Chapter) so be there two meanes of creating these Deanes. For these of the old foundation are brought to their dignitie much like Bishops: the King first sending out his *Congè d'aire* to the Chapter, the Chapter then chusing, the King yeelding his royall assent, and the Bishop confirming him, and giving his mandate to install him. Those of the new foundation are by a shorter course installed by vertue of the Kings Letters Patents, without either election or confirmation. This Word is also applyed to divers that are the chiefe of certaine peculiar Churches, or Chappels, as the Deane of the Kings Chappell, the Deane of the Arches, the Deane of Saint George his Chapel in *Windsor*, the Deane of *Bocking in Essex*.

Debet & solet: These words are divers times used in the Writers of the Common Law, and may trouble the minde of a yong Student, except hee have some advertisement of them. For example, it is said in the *Old, nat. br. fo. 98*. This Writ (*de secta molendini*) being in the (*debet*) and (*solet*) is a Writ of right, &c. and againe, *fo. 69*. A Writ of (*Quod permittat*) may be pleaded in the Countie before the Sheriffe, and it may be in the (*debet*) and in the (*solet*) or the (*debet*) without

the (*solet*) according as the Demandant claimeth. Wherefore note, that those Writs that be in this sort brought, have these words in them, as formall words not to bee omitted. And according to the diversitie of the case, both (*debet*) and (*solet*) are used, or (*debet*) alone: that is, if a man sue to recover any right by a Writ, whereof his Auncestor was disseised by the Tenant or his Auncestor, then hee useth onely the word (*debet*) in his Writ, because (*solet*) is not fit by reason his Auncestor was disseised, and the custome discontinued: but if he sue for any thing, that is now first of all denied him, then hee useth both these words (*debet & solet*) because his Auncestors before him, and hee himselfe usually injoyed the thing sued for: as suit to a Mill, or common of Pasture untill this present refusall of the Tenant. The like may be said of (*debet*) and (*detinet*) as appeareth by the *Regist. orig.* in the writ *de debito, fol. 140. a.*

Debito, is a writ which lyeth, where a man oweth to another a certaine summe of money upon an obligation or other bargaine, for anything sold unto him. *Fitz. nat. br. fo. 119*. This writ is made sometime in the *Detinet*. and not in the *Debet*. which properly falleth out, where a man oweth an Annuitie: or a certaine quantitie of wheat,

wheat, barley, or such like, which he refuseth to pay, *Old nat. br. fol. 75.* See *Debet & Solet.*

Denelage (*denelagia*) is the law that the Danes made here in England, out of which, and *Mircbenlage*, and *West Saxonlage*, the Conquerour compounded certaine ordinances for his subjects, *Camdeni Britan. pa. 94. & pag. 183.*

Decem tales. See *Tales.*

Decies tantum, is a writ that lieth against a Jurour, which hath taken money for the giving of his verdict, called so of the effect, because it is to recover ten times so much as he tooke. It lieth also against Embracers that procure such an enquest, *anno 38. Ed. 3. ca. 13. Reg. orig. fol. 188. Fitzh. nat. br. fo. 171. New book of Entries, verbo Decies tantum.*

Deceit (*deceptio, fraud, dolus*) is a subtil wily shift or devise, having no other name. Hereunto may bee drawne all manner of craft, subtilty, guile, fraud, wyliness, lightnesse, cunning, covin, collusion, practise, and offence, used to deceive another man by any meanes, which hath none other proper or particular name, but offence, *West. parte 2. symbol. titulo Indictments. sect. 68.* See *Cofening.*

Decenniers. See *Deciners.*

Deceptione, is a writ that lyeth properly against him that

deceitfully doth any thing in the name of another, for one that receiveth harm or dammage therby. *Fitzh. nat. br. fo. 95.* This writ is either originall or judiciall, as appeareth by the *Old nat. br. fo. 50.* where you may reade the use of both. For some satisfaction, take these words of that booke: This writ of deceit, when it is originall, then it lieth in case, where deceit is made to a man by another, by which deceit hee may be disherited, or otherwise evill intreated: as it appeareth by the *Register, &c.* And when it is judiciall, then it lieth out of the Rolles of Record: as in case where (*scire facias*) is sent to the Sheriffe, that hee warne a man to be before the Iustices at a certaine day, and the Sheriffe returne the writ served: whereas the said man was not warned, by which the partie that sueth the (*scire facias*) recovereth, then the partie which ought to have beene warned, shall have the said writ against the Sheriffe. *The author of the Termes of law, verbo Deceit,* saith that the originall writ of deceit lieth, where any deceit is done to a man by another, so that he hath not sufficiently performed his bargaine or promise. In the writ judiciall he concurrerh with the former booke. See the *Reg. orig. fo. 112.* and the *Reg. judiciall in the table, verbo Deceptione.*

Decimis solvendis pro possessionibus alienigenarum, is a writ, or Letters Patents, yet extant in the Register, which lay against those, that had ferm'd the Priors aliens lands of the King, for the Rector of the Parish, to recover his tithe of them, *Register orig. fol. 179.*

Decimers, aliàs, desimers, aliàs, doziners, (decenarii) commeth of the French *dizeine. i. decas*) ten in number, or else of (*disenier. i. decearchus.*) It signifieth, in the ancient Monuments of our law, such as were wont to have the oversight and checke of ten Friburghs, for the maintenance of the Kings peace. And the limits or compasse of their jurisdiction was called (*decenna*) *Bracton, lib. 3. tract. 2. cap. 15.* of whom you may also reade, *Fleta, lib. 1. ca. 27.* and a touch in the *Registr. orig. fol. 68. b.* These seemed to have large authoritie in the Saxons time, taking knowledge of causes within their Circuit, and redressing wrongs by way of judgement, as you may reade in the lawes of King *Edward*, set out by *M. Lambert, num. 32.* In later times I find mention of these, as in *Britton, cap. 12.* who saith in the Kings person (as he writeth his whole book) in this manner: We will, that all those which be 4. yeares old, shall make oath, that they shall be sufficient and loyall

unto us, and that they will be neither Felons, nor assenting to Felons: and we will, that all be (*en dozeine & plevin per dozeniers*) that is, professe themselves to be of this or that dozein, and make or offer suretie of their behaviour by these or those doziniars: except Religious persons, Clerks, Knights, and their eldest Sonnes, and women. Yet the same Author in his 29. chapter, something toward the end, doth say, that all of twelve yeares old, and upward, are punishable for not comming to the Turne of the Sheriffe, Except Earles, Prelates, Barons, Religious persons, and women. *Stannf. pl. cor. fol. 37.* out of *Fitzh.* hath these words: The like Law is, where the dozeniers make presentment, that a Felon is taken for felonie, and delivered to the Sheriffe, &c. And *Kitchin* out of the Register, and *Britton*, saith thus: Religious persons, Clerks, Knights, or women, shall not be Deceniers, *fol. 33.* So that hereby I gather, that of later times, this word signifieth nothing but such an one, as by his oath of loyaltie to his Prince, (for suretie none ordinarily findeth at these dayes) is settled in the combination or societie of a Dozein. And a Dozein seemeth now to extend so farre, as every Leet extendeth: because in Leetes onely this oath is ministred

ministred by the Steward, and taken by such as are twelve yeares old and upwards, dwelling within the compasse of the Leete where they are sworn, *Fitzh. nat. br. fol. 161. A.* The particulars of this oath you may reade in *Bracton, lib. 3. tract. 2. cap. 1. nu. 1.* in these words : *Quibus propositis* (that is, the Commission of the Justices being read, and the cause of their comming being shewed) *debent Justiciarii se transferre in aliquem locum secretum, & vocatis ad se quatuor vel sex, vel pluribus de majoribus de comitatu, qui dicuntur Busones Comitatus, & ad quorum nutum dependent vota aliorum, & sic inter se tractatum habeant Justiciarii ad invicem, & ostendant qualiter à Domino Rege & ejus concilio provisum sit, quòd omnes tam milites, quàm alii qui sunt quindecim annorum & amplius, jurare debent, quòd utlagatos, murtherores, robbatores, & burglatores non receptabunt, nec eis consentient, nec eorum receptatoribus, & si quos tales noverint, illos attachiari facient, & hoc Vicecomiti & balivis suis monstrabunt : & si hutesum vel clamorem de talibus audiverint, statim audito clamore, sequantur cum familia & hominibus de terra sua.* Heere *Bracton* setteth downe fifteene yeares for the age of those that are sworne to the Kings peace, but *lib. 3. tract. 2. cap. 11.*

num. 5. he nameth 12. yeares. See *Inlanghe.* A man may note out of the Premisses, diversities betweene the ancient, and these our times, in this point of law and government, as well for the age of those that are to be sworne, as also that *Decennier* is not now used for the chiefe man of a *Dozen*, but for him that is sworne to the Kings peace : and lastly, that now there are no other Dozens but Leetes, and that no man ordinarily giveth other securitie for the keeping of the Kings peace, but his owne oath : and that therefore none answereth for anothers transgression, but every man for himselfe. And for the generall ground this may suffice. See *Frankpledge.*

Declaration (*declaratio*) is properly the shewing forth, or laying out of an action personall in any suit, howbeit, it is used sometime, and indifferently for both personall and reall actions. For example, *anno 36. Ed. 3. cap. 15.* in these words : By the ancient termes and formes of declarations, no man shall be prejudiced : so that the matter of the action be fully shewed in the demonstration, and in the writ : See the new Termes of law. See *Cornie.*

Dedimus potestatem, is a writ, whereby commission is given to

a private man for the speeding of some act appertaining to a Judge. The Civilians call it (*Delegationem.*) And it is granted most commonly upon suggestion that the partie, which is to doe something before a Judge, or in Court, is so feeble, that he cannot travell. It is used in divers cases: as to make a personall answer to a Bill of complaint in the Chaucerie, to make an Atturney for the following of a suit in the Countie, Hundred, Wapentake, &c. *Old nat. br. fol. 20.* To levie a Fine, *West. par. 2: symbol. title Fines, sect. 112.* and divers other effects, as you may see by *Fitzh. nat. br.* in divers places noted in the *Index* of the Booke: In what diversitie of cases this writ or commission is used, see the table of the *Regist. orig. verbo. Deditur potestatem.*

Deedes (Facta) signifie in our common law writings, that containe the effect of a contract made betweene man and man, which the Civilians call (*Literarum obligationem.*) And of Deeds there be two sorts, deeds indented, and deeds poll. Which division, as *M. West.* saith *parte 1. Symbol. lib. 1. sect. 46.* groweth from the forme or fashion of them; the one being cut to the fashion of teeth in the top or side, the other being plaine. And the definition of a deed indented, hee

expresseth thus, *Sect. 47.* A deed indented, is a deed consisting of two parts, or more, in which it is expressed, that the parties to the same deed, have to every part thereof interchangeably, or severally, set their severall seales. See the rest, where at the last, hee sheweth the cause of the name: *viz.* for that consisting of more parts, each part is indented, or cut one of them into the other, that by the cut it may appeare, they belong to one businesse, or contract. A deed poll, or polled, hee describeth thus: *Sect. 46. Q.* A polled deed, is a deed testifying, that onely the one of the parties to the bargaine, hath put his seale thereunto, after the manner there by him described: which reade for your better understanding. See the new Tearmes of law, *verbo Fait*, where hee sheweth, that each deed consisteth of three points: writing, sealing, and delivery.

Deere Hayse, *anno 19. H. 7. cap. 11.* seemeth to be an Engine of cords, to catch Deere.

De essendo quietum de telonio, is a writ that lyeth for them which are by priviledge freed from the payment of tolle, which reade at large in *Fitzh. nat. br. fo. 226.*

Desalt (Desalta) commeth from the French (*Defaut*) and is an offence, in omitting that which

which wee ought to doe. *West. part. 2. symbol. titulo Indictment. sect. 2.* Of this hath *Bracton* a whole Tractate, *lib. 5. tractat. 3.* By whom it appeareth that a default is most notoriously taken for non appearance in Court, at a day assigned. Of this you may reade also in *Fleta. lib. 6. cap. 14.*

Deffaisance (*deffaisantia*) cometh of the French (*Deffaire*) or *Deffaire*) i. *infelctum reddere quod factum est*, and signifieth in our Common Law, nothing but a condition annexed to an act, as to an obligation, a recognisance or Statute, which performed by the Obligee or Recognizee, the Act is disabled and made void, as if it never had bin done, whereof you may see *West. at large, part. 1. symb. lib. 2. Sect. 156.*

Defendant (*defendens*) is he that is sued in an action personall: as Tenant, is he which is sued in an Action reall. Termes of the Law.

Defendemus, is an ordinary word in a feofinent or donation, and hath this force, that it bindeth the Donour and his heires, to defend the Donee, if any man goe about to lay any servitude upon the thing given, other then is contained in the donation. *Bracton. lib. 2. cap. 16. num. 10.* See also *Warrantizabimus & Acquiretabimus.*

Defender of the Faith (*defensor fidei*) is a peculiar Title given to the King of England by the Pope, as (*Catholicus*) to the King of Spaine, and *Christianissimus* to the French King. It was first given by *Leo Decimus* to King Henry the 8. for writing against *Martin Luther*, in the behalfe of the Church of Rome, then accounted, *Domicilium fidei Catholicae. Stroms animals, pag. 863.*

Deforcour (*deforcior*) cometh of the French (*Forceur. i. expugnator.*) It is used in our common Law, for one that overcommeth and casteth out by force, and differeth from disseisour first in this, because a man may disseise another without force, which act is called simple disseisin. *Britton. cap. 53.* next, because a man may deforce another, that never was in possession: as for example, if more have right to lands, as common heires, and one entring keepeth out the rest, the Law saith, that hee deforceth them, though he doe not disseise them. *Old. nat. br. fol. 118.* and *Litleton* in his Chapter (*Discontinuance*) fol. 117. saith, that he which is enfeofed by the Tenant in taile, and put in possession, by keeping out the Heire of him in reversion being dead, doth deforce him, though he did not disseise him; because hee entred, when the Tenant in taile

was living, and the heire had no present right. And a Deforfor differeth from an intrudour, because a man is made an Intrudour by a wrongfull entry onely into land or tenement voide of a possessor. *Bracton, lib. 4. ca. pri.* and a deforfour is also by houlding out the right heire, as is abovesaid.

Deliverances. See *Repligare*.

Demaund, (*demandi vel demandum*) commeth of the French (*Demande*), i. *postulatio, postulatus*) and signifieth a calling upon a man for any thing due. It hath likewise a proper signification with the common Lawyers opposite to plaint. For the pursuite of all civill actions are either demands or plaints : and the persuer is called Demaundant or Plaintife: *Viz:* Demaundant in actions reall, and Plaintife in personall. And where the partie persuing is called Demaundant, there the partie persued is called tenant: where Plaintife, there defendant. See *Termes of Law*, *verbo Demaundant*.

Demy haque. See *Haque*, and *Haquebut*.

Demaine, (*Dominicum*) is a French word, otherwise written (*Domaine*) and signifieth (*Patrimonium domini*) as *Hotoman* saith, *in verbis feudalibus verbo Dominicum*, where by divers authorities hee proveth those Lands to be

dominicum, which a man holdeth originally of himselfe and those to be *feodum*, which he holdeth by the benefite of a superiour Lord. And I finde in the Civill Law (*Rem dominicam*) for that which is proper to the Emperor. *Cod. Ne rei dominica vel templorum vindicatio temporis prescriptione submoveatur*, being the 38. title of the 7. booke. And (*Res dominici juris, i. reipub.*) in the same place. And by the word (*Domanium*) or (*Demanium*) are properly signified the Kings lands in *Fraunce*, appertaining to him in propertie, *Quia Domanium definitur illud, quod nominatim consecratum est, unitum & incorporatum Regie corone, ut scripsit Chopinus de dominio Francie tit. 2. per legem. Si quando 3. Cod. de bon. vacan. lib. 10. & Mathaeus de Afflictis in constit. Sicilia li. 1. tit. De locatione Demanii, 82.* which may be called, *Bona incorporata & in corpus fisci redicta*, *Skene de verborum signif. verb. Terra Dominicales.* In like manner doe we use it in *England*: howbeit wee here have no land (the Crowne land onely excepted) which holdeth not of a Superior. For all dependeth either mediately or immediately of the Crowne, that is, of some honour or other belonging to the Crowne, and not graunted in fee to any inferiour person. Wherefore no common person

hath

hath any demaines, simply understood. For when a man in pleading, would signifie his land to be his owne, he saith, that he is or was seised thereof in his demaine as of fee. *Litleton, lib. 1. cap. 1.* Whereby hee signifieth, that though his land be to him and his heires for ever, yet it is not true demaine, but depending upon a superior Lord, and holding by service, or rent in lieu of service, or by both service and rent: Yet I find these words used in the Kings right, *anno 37. H. 8. cap. 16. and 39. Eliz. cap. 22.* But the application of this speech to the King and crowne land, is crept in by error and ignorance of the word (*Fee*) or at least, by understanding it otherwise then of the Feudists it is taken. But *Britton, cap. 78.* sheweth, that this word (*demejne*) is diversly taken: sometime more largely, as of lands or tenements held for life, &c. and sometime more strictly, as for such onely as are generally held in fee. This word sometime is used for a distinction betweene those lands, that the Lord of a Manor hath in his owne hands, or in the hands of his Lessee, dimised upon a rent for tearme of yeares or life, and such other land appertaining to the said Manor, which belongeth to free, or copy-holders. Howbeit, the copy-hold belonging to any Ma-

nor, is also in the opinion of many good Lawyers accounted Demaines: *Bracton* in his fourth Booke, *tract. 3. cap. 9. nu. 5.* hath these words: *Item dominicum accipitur multipliciter. Est autem dominicum quod quis habet ad mensam suam & propriè, sicut sunt Bordlands anglicè. Item dicitur dominicum villenagium, quod traditur villanis, quod quis tempestivè & intempestivè sumere possit pro voluntate sua, & revocare.* Of this *Fleta* likewise thus writeth: *Dominicum est multiplex. Est autem Dominicum propriè terra ad mensam assignata, & villenagium quod traditur villanis ad excolendum, & terra precario dimissa, que tempestivè & pro voluntate domini poterit revocari: & sicut est de terra commissa, tenenda quam diu commissori placuerit, poterit & dici Dominicum, de quo quis habet liberum tenementum, & alius usufructum: & etiam ubi quis habet liberum tenementum, & alius curam, sicut de custode dici poterit & curatore; & unde unus dicitur à jure, alius quoque ab homine. Dominicum etiam dicitur ad differentiam ejus quod tenetur in servitio. Dominicum est omne illud tenementum, de quo antecessor obiit seiscitus ut de feudo, nec refert cum usufructu vel sine, & de quo si ejectus esset, si viveret, recuperare posset per assisam nomine disseisine, licet alius haberet usum*

fructum: sicut dici poterit de illis qui tenent in villenagio, qui utuntur, fruantur non nomine proprio sed nomine Domini sui. Flet. l. 5. c. 5. sect. Dominicum autem. And the reason why Copyhold is accounted Demeanes, is because they that be tenants unto it, are judged, in law, to have no other right, but at the will of the Lord. So that it is reputed still after a sort to be in the Lords hands. And yet in common speech, that is called ordinarily Demeanes, which is neither free nor copy. It is farther to be noted, that Demaine is sometime used in a more speciall signification, and is opposite to Franck fee. For example, those lands, which were in the possession of King Edward the Confessour, are called Ancient Demaine, and all others be called Franck fee. *Kitchin. fol. 98.* And the tenants which hold any of those lands, be called tenants in Ancient Demaine, the others tenants in Franck fee. *Kitchin ubi supra.* And also tenants of the common Law, *Westm. parte 2. Symbol. titulo Fines. Sect. 25.* The reason is, because tenants in Ancient Demaine, cannot be sued out of the Lords court: Termes of the Law. *Verbo Ancient Demaine.* And the tenants in Ancient Demaine, though they hold all by the verge, and have none other evidence, but copy of Court

rolle, yet they are said to have Free hold, *Kitchin fol. 81.* See *Ancient Demaine.*

Demaine cart of an Abbot, seemeth to be that Cart, which the Abbot useth upon his owne Demaine. *Anno 6. H. 3. cap. 21.*

Demurrer (demorare) cometh of the French (*demeurer. i. manere in aliquo loco vel morari*) It signifieth in our common law, a kind of pause upon a point of difficultie in any action, and is used substantively. For in every action, the controversie consisteth either in the fact, or in the law: If in the fact, that is tried by the Iurie; if in law, then is the case plaine to the Judge; or so hard and rare, as it breedeth just doubt. I call that plaine to the Iudge, wherein he is assured of the law, though perhaps the partie and his counsell yeeld not unto it. And in such, the Iudge with his Associates proceedeth to Iudgement without farther worke: but when it is doubtfull to him and his Associates, then is there stay made, and a time taken, either for the Court to thinke farther upon it, and to agree if they can: or else for all the Iustices to meet together in the Chequer chamber, and upon hearing of that which the Sergeants shall say of both parts, to advise, and set downe what is law. And whatsoever they conclude,

clude, standeth firme without farther remedie, *Smith, de Repub. Anglo. lib. 2. cap. 13.* *West* calleth it a *Denurrer* in Chancery likewise, when there is question made whether a parties answer to a Bill of Complaint, &c. be defective or not: and thereof reference made to any of the Bench, for the examination thereof, and report to be made to the Court, *parte 2. symb. tit. Chancery. Sect. 29.*

Denarista terre. See *Fardingdeale of land.*

Denizen, commeth of the French (*donaison. i. danatio.*) And signifieth in our common law, an Alien that is enfranchised here in *England* by the Princes Charter, and inabled, almost in all respects, to doe as the Kings native subjects doe, namely, to purchase, and to possesse lands, to be capable of any office or dignitie. Yet it is said to be short of naturalisation, because a stranger naturalised, may inherit lands by descent, which a man made, onely a Denizen cannot. And againe, in the Charter whereby a man is made Denizen, there is commonly contained some one clause or other, that abridgeth him of that full benefit, which naturall subjects doe enjoy. And when a man is thus enfranchised, hee is said to be under the Kings protection; or, *Esse ad fidem*

Regis Anglie, before which time hee can enjoy nothing in *England.* *Bracton, lib. 5. tract. 5. cap. 25. nu. 3.* Nay, he and his goods might be seised to the Kings use, *Horn in his mirrour of Iustices, lib. 1. cap. de la Venue de franc plege.*

Deodand (*deodandum*) is a thing given or forfeited (as it were) to God for the pacification of his wrath in a case of misadventure, whereby any Christian soule commeth to a violent end, without the fault of any reasonable Creature. For example, if a horse should strike his keeper, and so kill him: If a man in driving a cart, and seeking to redresse any thing about it, should so fall, as the cart wheele running over him, should presse him to death: If one should be felling of a tree, and giving warning to company by, when the tree were neere falling, to looke to themselves, and any of them should be slaine nevertheless by the fall of the tree. In the first of these cases, the horse: in the second, the cart wheele, cart and horses: and in the third, the tree is to be given to God: that is, to be sold and distributed to the poore, for an expiation of this dreadfull event, though effected by unreasonable, yea, senslesse and dead creatures. *Stawns. pl. cor. lib. 1. cap. 2.* whereof

also read *Bracton, lib. 3. tract. 2. cap. 5.* and *Briton, cap. 7.* and *West. parte 2. symbolog. titulo Indictments. Sect. 49.* And though this be given to God : yet is it forfeited to the King by law, as sustaining Gods person, and an executioner in this case, to see the price of these distributed to the Poore, for the appeasing of God, stirred up even against the earth and place, by the shedding of innocent blood thereupon. *Fleta* saith that this is sould, and the price distributed to the poore, for the soule of the King, his Auncesters, and all faithfull people departed this life, *lib. 1. caps. 25. verbo. De submersis.* And it seemeth that this law hath an imitation of that in *Exodus, cap. 21. Si cornu petierit bos virum vel mulierem, ita ut moriatur, lapidabitur bos, neq; comedatur caro ejus, at Dominus ejus erit innocens.*

De Deoneranda pro rata portio- nis, is a writ that lieth where one is distrained for a rent, that ought to be paid by others proportionally with him. For example, a man holdeth ten Oxegangs of land by fealtie, and ten Shillings rent of the King, and alienateth one Oxegang thereof to one, another to another in fee. Afterward the Sheriffe or other officer commeth, and distraineth onely one of them for the rent :

hee that is distrained may have this writ for his helpe. *Fitzb. nat. br. fol. 234.*

Departer, is a word properly used of him, that first pleading one thing in barre of an action, and being replied thereunto, doth in his rejoinder, shew another matter contrary to his first plea. *Plowden in Reniger. and Fogassa, fol. 7. & 8.* And of this see divers examples in *Broke, titula Departes de son plee, &c.*

Departers of Gold and Silver. See *Finours.*

De quibus sur disseisin, is a writ of entry. See *Fitzb. nat. br. fol. 191. C.*

Dereyne (disfrationare, vel dirationare) may seeme to come of the French (*disarroyer. i. confunder, turbare*) to confound or turne out of order, or (*desrauger. i. to set out of order,* or lastly of the Norman word (*desrene*) for with the Normans (*desrene*) is nothing else but a prooffe of the deniall of a mans owne fact. For *Rubigenus* in his *grand custumarie. cap. 122, & 123.* maketh mention of (*lex probabilis*) and (*lex deraisnia*) *legem probabilem* or (*probationem*) : hee defineth to bee a prooffe of a mans owne fact, which he saith he hath done, and his adversary denieth. His example is this : *A. sueth R. for a Hog :* saying, thou shouldest deliver me a Hog for two shillings fixe

fixe pence : which money *F.* paid thee : wherefore I demand my Hog. *R.* answereth : It is true that thou sayest, and I delivered thee thy Hog, which I am ready to prove. *Deraignum* he defineth, to be a prooffe of a thing, that one denieth to be done by himselfe; which his adversarie saith was done, defeating or confounding his adversaries Assertion (as you would say) and shewing it to be without, and against reason or likelihood, which is avouched. In our common law it is used diversly, first generally, for to prove: as *Dirationabit jus suum heres propinquior.* *Glanvil.* li. 2. cap. 6. and *Habeo probos homines, qui hoc viderunt & audierunt, & parati sunt hoc dirationare.* *Idem* lib. 4. cap. 6. and (*Dirationavit terram illam in curia mea.*) *Idem* lib. 2. cap. 20. i. hee proved that land to be his owne, &c. And (*pertinentiam eam dirationavit in vita sua, vel alio modo jussu perquisivit*) *Idem.* lib. 6. cap. 12. and *Bracton* useth it after the same sort, in these words: *Habeo sufficientem distratiocinationem & probationem.* lib. 4. tract. 6. cap. 16. and so he useth (*distratiocinare*) lib. 4. cap. 22. and so in *Westm.* 2. anno 13. *Ed. pri.* cap. 32. and to dereine the warrantie *Old nat. br.* fol. 146. and to dereine the warrantie Paramount, *an.* 31. *H. 8. ca. primo.* And *deveigner. le Warranty* in

Plowd. casu Basset in fine 2. partis fol. 6, 7, & 8. a. hath the same signification. So it is used, *Westm.* 2. cap 5. anno 13. *Ed. 1.* in these words : And when the person of any Church is disturbed to demand Tithes in the next Parish, by a writ of (*Indicavit*) the patron of the Parson so disturbed to demand Tithes, shall have a writ, to demand the Advowson of the Tithes, being in demand: and when it is deraigned, then shall the plee passe in the Court Christian, as farre forth as it is deraigned in the Kings Court. *Bracton* also, lib. 3. tract. 2. cap. 3. num. 1. speaking of him that appealeth another for any Treason or Felony, hath these words: *Proponat accusans appellum suum in hunc modum, sc: debet dicere se intersuisse, & vidiſſe certo loco, certo die, certa hora, & ſciſſe ipſum accusatum prelocutum fuſſe mortem regis, vel ſeditionem ſuam, vel exercitum ſui, vel conſenſiſſe, vel auxilium & conſilium impendiſſe, vel ad hoc auctoritatem preſtiſſe: & hoc ego juxta conſiderationem curie diſtratiocinare paratus ſum.* He useth it likewise as the Normans use, (*Distratiſiam*) for him, that offereth to juſtifie his deniall : as lib. 3. tract. 2. cap. 28. nu. 1. in these words : *Rex conſilio Epiſcoporum & bonorum miſit propter comitem, ut ſtatim die veniret ad curiam, ad diſtratiocinandum vel defendendum,* ſc,

se, si possit. Lastly, in some places I find the substantive (*dereinement*) used in the very literall signification of the French (*disfrayer*) or (*desfranger*) that is, as a man would say, turning out of course, displacing or setting out of order: as *dereinement* or departure out of Religion, *anno* 31. *H. 8. cap. 6.* and *dereinement* or discharge of their profession, *anno* 33. *H. 8. cap. 29.* which is spoken of those Religious men, which forsooke their orders and professions: as also *anno* 5, & 6. *Ed. 6. cap. 13.* So doth *Kitchin* use the verb; *fol. 152.* in these words: The Leasse entreth into Religion, and afterward is dereigned. And *Britton* useth these words (*Semounse defrenable*) for a summons that may be chalenged as defective, or not lawfully made, *cap. 21.* Of this you may reade something more in *Skene de verb. signif. verbo Disrationare*, where in one signification hee confoundeth it with our waging and making of law.

De son tort demesne, seeme to be certaine words of forme in an action of trespassse, used by way of reply to the plea of the Defendant. For example: *A.* sueth *B.* in action of trespassse. *B.* answereth for himselfe, that he did that which *A.* calleth a trespassse, by the commandement of *C.* his Master. *A.* saith againe, that *B.*

did it *de son tort demesne*, sans ceoque. *C.* lay *commanda modo & forma*: that is, *B.* did it of his owne wrong, without that that *C.* commanded him in such forme, &c.

Detinet. See *Debito* and *Debet.*

Detinew (*detinendo*) is a writ that lyeth against him, who having goods or chatels delivered him to keepe, refuseth to deliver them againe. See of this *Fitzb. nat. br. fol. 138.* To this is answerable in some sort (*actio depositi*) in the civill law. And hee taketh his action of *detinue*, that intendeth to recover the thing delivered, and not the damages sustained by the *detinew*. *Kitchin*, *fol. 176.* See the new booke of Entries, *verbo, Detinew.*

Devastaverunt bona testatoris, is a writ lying against Executors, for paying Legacies and Debts without specialties, to the prejudice of the creditours that have specialties, before the debts upon the said specialties be due. For in this case, the Executors are as liable to action, as if they had wasted the goods of the Testatour riorously or without cause. New termes of law.

Devest (*devestire*) is contrary to Invest. For as *Investire* signifieth *possessionem tradere*. So (*devestire*) is (*possessionem auferre*) *semd. lib.*

libro primo, cap. 7.

Devise, alias disvise, commeth of the French (*diviser*, i. *differtiri*, *discernere*, *separare*, *distinguere*) as (*diviser par ci & par la distribuer*.) This word is properly attributed in our Common Lawe to him, that bequeaths his goods by his last Will or Testament in writing: and the reason is, because those that now appertain onely to the *Deviseur*, by this act are distributed into many parts. Wherefore I thinke it better written *divise* then *devise*, howbeit it were not absurd, to derive this word from the French (*diviser*) i. *sermocinari*, *fabulari*, *consilium conferre*. For in this sence it agreeth in some sort with the nature of the act of the Testator, and with the Etymology of a Testament set downe by *Justinian*, who saith, that *testamentum* is (*quasi mentis testatio*, *titulo de test. ordin. in institut.* and *testatio mentis* cannot be so well, as by talke and conference with our wise and skilfull friends.

Devoires of Cales, anno 2. R. 2. Stat. 1. cap. 3. & anno 5. ejusdem, Stat. 2. cap. 2. were the customes due to the King for Merchandize brought too or carried out from *Caleis*, when our Stable was there. The word is French, signifying as much as (*officium*) *ducie*.

Devorce, alias, divorce (*divortium*) is with our Common Lawyers, accounted that separation betweene two *de facto* married together, which is a *vinculo matrimonii, non solum a mensu & thoro*. And therefore the woman so divorced, received all againe that shee brought with her. This is not, but only upon a nullity of the marriage through some essentiall impediment, as consanguinitie or affinitie within the degrees forbidden, precontract, impotence, or such like. See the new *Termes of Law*.

Diem clausit extremum, is a Writ that lyeth for the Heire of him that holdeth Land of the Crowne, either by Knights service, or in soccage, and dyeth, be he under or at full age, directed to the Escheatour of the County for inquirie to bee made by him, of what estate the partie deceased was seised, and who is next heire unto him, and of what value the land is. The forme thereof and other circumstances you may learne in *Fitzh. nat. br. fol. 251.*

Dyer, was a learned Lawyer, and Lord Chief Justice of the Common Pleees, in the dayes of Queene *Elizabeth*: who writ a Booke of great account, called his *Commentaries* or *Reports*.

Dies datus, is a respight given to the Tenant or Defendant be-

fore the Court. *Brooke titulo Continuance.*

Dicker of Leather, is a quantitie consisting of tenne hides. The name may seeme to come from the Greek (*deka*) which is also a Latine word signifying tenne in number.

Dignity Ecclesiasticall (*dignitas Ecclesiastica*) is mentioned in the statute anno 26.H.8.cap. 3. and is by the Canonists defined to be (*administratio cum jurisdictione & potestate aliqua conjuncta*. *Glos. in ca. 1. de consuet. in sexto.*) whereof you may reade divers examples in *Duarinus de sacris Eccles. ministr. & benefic. lib. 2. cap. 6.*

Dioces (*diæcesis*) is a Greek word compounded of (*δία*) and (*ἑκκλῆσις*) and signifieth with us, the circuit of every Bishops jurisdiction. For this Realme hath two sorts of divisions, one into Shires or counties, in respect of temporall policie, another into Diocesses in respect of jurisdiction Ecclesiasticall.

Dieta rationabilis, is in *Bracton* used for a reasonable dayes journey. *lib. 3. parte 2. cap. 16.* It hath in the Civile Law divers other significations, not needfull heere to be set downe. *v. vocab. utriusque juris.*

Diminutione. See *Haque*.

Disalt, signifieth as much as to disable. *Littleton* in his Chapter of *Discontinuance*.

Disceite, See *Deceit* and *deceptione*. See the new booke *Entrie*, verbo *Disceit*.

Discent (*Disensus*) in the French (*Desceute*) signifieth in the Common Law, an order or means whereby Lands or Tenements are derived unto any man from his Ancestors: as to make his discent from his Ancestors: *Old nat. br. fol. 101.* is to shew how and by what degrees, the Land in question came to him from his Auncestours: as first from his great Grandfather, to his Grandfather, from his Grandfather to his Father, and so to him. Or in such other like sort: This discent is either lineall or collaterall. Lineall discent is conveyed downward in a right line from the Grandfather, to the Father, and from the Father to the Sonne, and from the Sonne to the Nephew, &c. Collaterall discent is springing out of the side of the whole blood: as Grandfathers brother, Fathers brother, &c. See the new *Termes of Law*.

Disclamer (*Disclamium*) is a plee containing an expresse deniall or refusall: as if the tenant sue a Replevin upon a Distresse taken by the Lord, and the Lord avow the taking of the distresse, saying that hee holdeth of him as of his Lord, and that he distreined for rent not paid, or service not performed: then the

Tenant

Tenant denying himselfe to hold of such Lord, is said to disclaime: and the Lord proving the Tenant to hold of him, the Tenant leeseeth his Land. *Termes of Law*. Of this see *Skene de verb. signif. verbo Disclamation*. Also if a man denie himselfe to be of the blood or kindred of another in his plea, he is said to disclaime his blood: *Fitz. nat. br. fol. 197. G.* See *Brook titulo Disclamer*. If a man arraigned of Felony doe disclaime goods, being cleered hee leeseeth them. *Stawf. pl. cor. fol. 186.* See the new Booke of Entries. *verbo, Disclamer*.

Discontinuance (*Discontinuation*) commeth of the French (*Discontinuer*) .i. cessare, intermittere) and signifieth in the Common Law, nothing else but an interruption or breaking off: as discontinuance of possession, or discontinuance of proces. And the large discourse that *Littleton* hath about this (*Discontinuance*) is rather to shew cases wherein it is or wherein it is not, then to define the thing. The effect of discontinuance of possession is this, that a man may not enter upon his owne Land or Tenement alienated, whatsoever his right bee unto it, of his owne selfe, or by his owne authoritie, but must bring his Writ, and seek to recover possession by Law. Examples you may have store in his *Termes*

of Law, *verbo Discontinuance*. And in *Littleton eodem capite*, with whom agreeth another in these words: But discontinuance of Possession, is indeede an impediment to a man for entring into his owne Land or Tenements, caused by the fact of one, that alienated them contrary to right, and gave Livery and Seisin of them, whereby the true owner is left only to his action. See the new *Termes of Law*, and the Institutes of the Common Law, *cap. 43.* and see *S. Ed. Cokes Reports, l. 3. the Case of Fines, fol. 85. b.* The effect of discontinuance of plea is, that the instance is fallen, and may not be taken up againe, but by a new Writ to begin the Suit afresh. For to bee discontinued, and to be put without day, is all one; and nothing else, but finally to be dismissed the Court of that instance. *West. parte 2. Symbol. tit. Fines. sect. 115.* So *Crompton* in his divers Jurisdiccions, *fol. 131.* useth it in these words: If a Justice seat be discontinued by the not comming of the Justices, the King may renew the same by his Writ, &c. In this signification, *Fitz. herb.* in his *nat. br.* useth the word divers times: as discontinuance of a corody, *fol. 193. A.* To discontinue the right of his wife, *fol. 191. L. & 193. L.* *Discontinuance* of an assise, *fol. 182. D. 187. B.*

Disgrading (*Degradatio*) is the punishment of a Cleaerke that being delivered to his Ordinarie, cannot purge himselfe of the offence, whereof hee was convicted by the Jurye: and is nothing but the deprivation of him from those orders of Clerkship that hee had, as Priesthood, Deaconship, &c. *Stanf. pl. cor. fol. 135. & 138.* There is likewise disgrading of a Knight, *Stowes Annals pag. 885.* And it is not to be omitted, that by the Canon law, there bee two sorts of disgrading: one summary by word onely, and another solemne by devesting the party degraded of those Ornaments and Rites, which be the ensignes of his Order or Degree.

Dismes (*Decimas*) is made of the French (*Decimes*) and signifieth tithe or the tenth part of all the fruites, either of the earth, or beastes, or our labour, due unto God, and so consequently to him that is of the Lords lot, and hath his share: viz. our Pastour. It signifieth also the tenthes of all Spirituall livings, yearely given to the Prince (called a perpetuall *Disme.* anno 2. & 3. *Edwar. 6. cap. 39.*) which in ancient times, were paid to the Pope, untill Pope *Urbane* gave them to *Richard* the second, to aide him against *Charles* the French King, and those other that upheld *Clement*

the seventh against him. *Polidor Virgil. Angl. hist. lib. 20.* Lastly, it signifieth a tribute levied of the Temporality. *Holinsbed in Henry 2. fol. 111.*

Disparagement, *Disparagatio*, is by our Common Lawyers, used especially for matching an heire in marriage under his or her degree, or against decencie. See my *Institutes, titulo de nuptiis. §. 6.*

Disseisin (*Disseisina*) commeth of the French (*Disseisin*) and signifieth in the Common Lawe, an unlawfull dispossessing of a man of his land, tenement or other immoveable or incorporeall right, *Institut. of the Com. Lawe, cap. 15.* And how farre this extendeth, See *Bracton, libro quarto, cap. tertio.* And therefore the Assises bee called Writs of disseisin, that lye against disseisors in any case. whereof some bee termed little Writs of disseisin, being *vicontiel*, that is, sueable before the Sherriffe in the County Court, *Old nat. br. fol. 109.* because they are determined by the Shyreewe without assise. *Register Original. fol. 198. b.* as for Nuisances of no great prejudice. *Disseisin* is of two sorts, either simple disseisin, committed by day without force and arms. *Bracton. li. 4. cap. 4. Briton. cap. 42. & 43. & 44.* where you shall finde in what especially it is lawfull, in what not *Britton. cap. 53.* And Disseisin by force

force, for the which see *Defer-
sion*. See *Fresh disseisin*. See *Redif-
seisin*, and *Post disseisin*. See *Blene
de verbo signific. verbo disseisina*.
Disseisin how many wayes it is
committed. See *Fleta*, li. 4. ca. 1.
§. *Fit autem*, &c. and when it is
lawfull, cap. 2.

Distresse (*distressio districtus*)
commeth of the french (*distresse*,
augstine.) It signifieth most
commonly in the common law,
a compulsion in certaine reall
actions, whereby to bring a man
to appeare in Court, or to
pay debt or dutie denied. The
effect whercof most commonly
is, to drive the party distreined
to replevie the distresse, and so
to take his action of trespassse a-
gainst the distreiner, or else to
compound neighbourly with him
for the debt or drile, for the
which hee distreinerh. In what
cases a distresse is lawfull, see
The new termes of law. The *Civi-
lians* call it (*pignorum captionem*.)
Brissoni de verbo signif. lib. 14.
This compulsion is by *Britton*, ca.
71. divided into a distresse perso-
nall, and distresse reall: distresse
personall, is made by surprising a
mans moveable goods, and de-
taining them for the security of
his appearance to the suit, and
to make him Plaintiffe. A distresse
reall, is made upon immoveable
goods, as the *Grand Cape* & *Petit
Cape*. And thus it is interpreted

by *Hotom* de verb. feudal. verbo
districtus. This differeth from
an Attachment in this point (a-
mong others) that a Distresse can-
not bee taken by any common
person, without the compasse of
his owne fee, *Fitzherb. nat. br. fol.*
904. except it bee presently af-
ter the cattell or other thing, is
driven or borne out of the
ground by him that perceiveth
it to be in danger to be distreined.
*New termes of the law. verbo di-
stresse.*

Districtus, is sometime used
for the circuit or territory with-
in the which, a man may be thus
compelled to appearance, *Ca. de
Roman. de electione in Clem.* and
Cassan. de consuetud. Burgand. pa.
90. *Britton*, ca. 120. and so like-
wise in *Districtus* in the Register
Originall. fol. 6. b. And so it see-
meth to be used in *Papillavoculi*.
par. 5. c. 22. *Charta de foresta*. See
also *Mynsing*, in the chapter, *licet
causam*, 9. extra de probationibus.
m. 5. and *Basius* in his 16. counsell.
m. 47. Distresse, in the former sig-
nification, is divided first into
finite and infinite. Finite is that
which is limitted by law, how
often it shall be made to bring
the party to triall of the action,
as once, twice. *Old nat. br. fol. 43.*
Distresse infinite is without limi-
tation untill the party come: as
against a Jurie that refuseth to
appeare *super certificatione Assisa*,
the

the proceſſe is a (*venire facias*) (*habeas corpora*) and diſtreſſe infinite, *Old nat. br. fol. 113.* Then it is divided into a grand diſtreſſe, *anno 52. H. 3. ca. 7.* which *Fitzherbert* calleth in Latine *magnam diſtriſſionem*, *nat. br. fol. 126. A.* and an ordinary diſtreſſe. A grand diſtreſſe is that, which is made of all the goods and chattels that the partie hath within the Countie, *Britton, cap. 26. fol. 52.* But ſee whether it bee ſometime not all one with a diſtreſſe infinite, *Idem. fol. 80.* with whom alſo the Statute of *Marlebridge* ſeemeth to agree, *anno 52. H. 3. ca. 7. & cap. 9. & cap. 12.* See *Old nat. brev. fol. 71. b.* See grand diſtreſſe, what things be diſkreina- ble, and for what cauſes. See the *New Termes of Law. verbo Diſtreſſe.* Of this alſo ſee more in *Attachement.*

Diſtringas, is a Writ directed to the Sheriffe, or any other Officer, commanding him to diſtreine one for a debt to the King, &c. or for his appearance at a day. See great diverſitie of this Writ in the Table of the Register judiciale, *verbo diſtringas.*

Diviſe. See *Deviſe.*

Dividends in the Exchequer, ſeemeth to be one part of an Indenture, *anno 10. Ed. 1. ca. 11. & anno 28. ejusdem. Stat. 3. ca. 2.*

Divorce. See *Devorce.*

Docket, is a Briefe in writing,

anno 2. & 3. Ph. & Mar. cap. 6. *Weſt.* writeth it (*Dogget*) by whom, it ſeemeth to be ſome ſmall piece of paper or parchment containing the effect of a larger writing, *Symbol. parte 2. titulo Fines. Sect. 106.*

Doctor and Student, is a Booke containing certaine Dialogues, betweene a D. of Divinitie, and a Student at the Common Law, wherein are contained queſtions and caſes, as well of the equity and conſcience uſed in the common Law, as alſo a Compariſon of the Civill, Canon, and Common Law together, very worthy the reading. The Author is ſaid by D. *Coſin* in his Apologie, to be a Gentleman, called *Saint German.* The Booke was written in the dayes of *H. 8.*

To doe law, (*facere legem*) is as much as to make law, *an. 23. H. 6. ca. 14.* See *Make.*

Dog draw, is a manifeſt deprehenſion of an offender againſt veniſon in the Foreſt. There be foure of theſe noted by *M. Manwood*, parte 2. of his Foreſt Lawes, *ca. 18. nu. 9. viz. Stable ſtand, Dog draw, Back beere, and Bloody hand.* *Dog draw*, is when one is found drawing after a Deere, by the ſent of a Hound, that he leadeth in his hand.

Dogger, a kind of Ship, *an. 31. Ed. 3. Stat. 3. cap. pri.*

Doggerſh, *ibid. c. 2.* ſeemeth to be

be Fish brought in those Ships to Blackney haven, &c. Dogger men, anno 2. H. 8. ca. 4.

Dogget. See *Docket*.

Domo reparanda, is a writ that lyeth for one against his neighbor, by the fall of whose house hee feareth hurt toward his owne house, *Reg. orig. fol. 153.* for this point, The Civilians have the action *de damno infecto*.

Dole fish, seemeth to bee that Fish, which the Fishermen yearly employed in the North Seas, doe of custome receive for their allowance. See the statute, *an. 35. H. 8. ca. 7.*

Donative, is a Benefice meerly given and collated by the Patron to a man, without either presentation to the Ordinarie, or Institution by the Ordinarie, or Induction by his commandement, *Fitzh. nat. br. fol. 35. E.* See the statute, anno 8. R. 2. cap. 4. Of this *Petr. Gregor. de beneficiis, cap. 11. nu. 10.* hath these words: *Si tamen Capellania fundata per Laicos non fuerint à Dioecesano approbate, & ut (loquuntur) spiritualizate, non censentur beneficia, nec ab Episcopo conferri possunt, sed sunt sub pia dispositione fundatoris. Job. Fab. ad h. Nullius. De rerum divinis: Ideo fundatores & heredes eorum, possunt tales Capellania donare sine Episcopo, cui voluerint, tanquam profana beneficia. Guido Papaus de scis. 187.* See also *Gregorius lib. 15. cap. 29.*

sui syntagmati nu. 11. I finde in the Preface of *M. Gwins* readings, that as the King might of ancient times found a free Chappell, and exempt it from the jurisdiction of the Diocesan: so hee might also by his Letters Patents license a common person, to found such a Chappell, and to ordaine, that it shall be Donative and not presentable, and that the Chaplaine shall be depriveable by the founder and his heires, and not by the Bishop. And this is likest to be the originall of these *Donatives in England.* *Fitzh.* saith, that there be certaine Chauntries, which a man may give by his Letters Patents, *nat. br. fol. 33. C.* See him also, *fo. 42. B.* All Bishopricks were Donative by the King, *Coke lib. 3. fol. 75. b.*

Doomes day (*Rotulus Wintonie*) (*domus Dei. Coke in prefatione ad librum suum*) is a Booke that was made in King *Edw. the Confessors* dayes, as the Author of the *Old nat. br.* saith *f. 15.* containing in it not onely all the Lands through England, but also all the names of those, in whose hands they were at that time, when the booke was made. *M. Lamberd* in his explication of Saxon words (*verbo, Ius Dacorum, &c.*) proveth out of *Gervasius Tilburienfis*, that this Booke was made in *William the Conquerours* time: with whom agreeth *M. Camden* in his

his Britan, pag. 94. proving it out of *Ingulphus*, that flourished the same time. And for the better commendation of the Booke, it is not amisse to set downe the words of *Ingulphus*, touching the contents thereof. *Totum terrarum descripsit, Nec erat hyda in tota Anglia, quin ualorem ejus & possessorem scribit, nec lacus nec locum, aliquis, quin in Regis rotulo extitit descriptus, ac ejus redditus & proventus, ipsa possessio, & ejus possessor regie notitie manifestatus, juxta taxatorum fidem qui electi de qualibet patria territorium proprium describebant. Iste rotulus vocatus est Rotulus Wintonie, & ab Anglia pro sua generalitate, quod omnia tenementa totius terre continuit (Domesday) cognominatio.* So it is called in the statute, anno. Ric. 2. cap. 6. And in *Ockhams lucubrations de fisci Regis ratione*, which seemeth to bee taken out of the Booke called (*Liber rubens*) in the Exchequer. It is termed (*Liber Judicatorius*) and the reason why, *quia in eo totius Regni descriptio diligens continetur: & tam de tempore Regis Edwardi, quam de tempore Regis Willielmi, sub quo factus est, singulorum funderum valentia exprimitur.*

Dorture (*dormitorium*.) anno 25. H. 8. ca. 11. is the common roome, place or chamber, where all the Friers of one convent slept, and lay all night.

Date assignandi, is a writ that lieth for a Widow, where it is found by office, that the Kings tenent was seised of tenements in fee, or fee taile, at the day of his death, &c. and that hee holdeth of the King in chiefe, &c. For in this case the Widow commeth into the Chancerie, and there maketh oath, that shee will not marry without the Kings leave, anno. 15. Ed. 3. cap. 4. and hereupon she shall have this writ to the Elicheatour; for which, see the Register Originall, fol. 297. and *Fitzherb. nat. br. fol. 263.* And this sort of Widowes is called the Kings Widow. See *Widow*.

Dote unde nihil habet, is a writ of Dower, that lieth for the Widow against the tenent, which hath bought land of her Husband in his life time, whereof hee was seised solely in fee simple, or fee taile, in such sort as the issue of them both might have inherited it, *Fitz. nat. br. fol. 147. Regist. fol. 170.*

Dotis admensuratione. See *Admensurement*. See the Register, fol. 171.

Dorkins, a kind of Coine, pl. cor. fol. 37. It seemeth to come of the Dutch word, *Duytken*, that is, the eighth part of a *Stuifer*, or French *Shilling*, which in Latine is called *Solidus Gallicus*.

Doubles, anno. 14. H. 6. cap. 6. signifie as much as letters Patents, being as it seemeth a French word made of the Latine (*diploma*.)

Double plea, (*duplex placitum*) is that, wherein the defendant alleageth for himselfe two severall matters, in barre of the action whereof either is sufficient to effect his desire in debarring the plainriffe. And this is not to bee admitted in the Common Law: wherefore it is well to bee observed, when a plea is double, and when it is not. For if a man alledge severall matters, the one nothing depending of the other, the plea is accounted double. If they bee mutually depending one of the other, then is it accounted but single. *Kitching fol. 223.* See *Brooke hoc titulo*. But why this doublnesse (for so *Kitchin* calleth it, *fol. 234.*) should be debarred, I see no reason (under correction all things being spoken) For a man may have two good defences: and happily in the issue he shall contrarily to his hope faile in proving the one, and yet be able to carry the cause by the other. And therefore not only the Civilians, but *Bracton* also saith: *Pluribus exceptionibus uti nemo prohibetur. libr. 5. tract. 5. cap. 5. num. 4.* whom also reade, *libro 4. cap. 17.* And Sir Thomas Smiths reason of this

scantly satisfieth mee, alledging this to be the course of our proceeding, because the triall is by twelve rude men, whose heades are not to be troubled with over many things at once. *lib. 2. de Repub. Anglor. cap. 13.*

Double quarrell (*duplex querela*) is a complaint made by any Clerke or other unto the Archbishop of the Province, against an inferiour Ordinary for delaying of Justice in some cause Ecclesiasticall: as to give sentence or to Institute a Clerke presented, or such like. The effect whereof, is that the said Arch-bishop taking knowledge of such delay, directeth his letters under his authentick Seale, to all and singular Clerks of his Province, thereby commaunding and authorizing them and every of them, to admonish the said Ordinarie, within a certaine number of dayes, namely 9. dayes, to doe the Justice required, or otherwise to cite him to appeare before him or his Officiall, at a day in the said Letters prefixed, and there to alledge the cause of his delay. And lastly, to intimate to the said Ordinary, that if hee neither performe the thing enjoyned, nor appeare at the day assigned, he himselfe will, without farther delay, proceed to performe the Justice required. And this semeth to bee termed a double

quarrell, because it is most commonly made against both the Judge and him at whose petition Justice is delayed.

Dower (*dos*) commeth of the French (*douaire*) and signifieth in our Common Law, two things: first, that which the wife bringeth to her husband in marriage, otherwise called (*maritagium*) marriage goods: next, and more commonly, that which she hath of her husband, after the marriage determined, if shee out-live him. *Glanvile lib. 7. cap. 1. Bracton lib. 2. cap. 38. Briton. cap. 101. in princ.* And in Scotland, (*dos*) signifieth just as much. *Skene de verb. signif. verbo Dos.* The former is in French called (*dot*) the other *dowayre*, and by them latined *donarium*. I likewise once thought it not unreasonable, to call the former a *Dowrie*, and the other a *Dower*: but I finde them confounded. For example: *Smith de rep. Anglo. pa. 105.* calleth the latter a *dowry*, and *dower* is sometime used for the former: as in *Briton. ubi supra.* yet were it not inconvenient to distinguish them being so-divers. The Civilians call the former (*dotem*) and the latter (*donationem propter nuptias.*) Of the former, the common Law bookes speake very little. This onely is to be noted, that whereas by the Civill Law, instruments are made be-

fore marriage, which containe the quantitie of the wives dowrie, or substance brought to her husband, that hee having the use of it, during marriage, may, after certaine deductions, restore it againe to his wives Heires or friends, after the marriage dissolved: the Common Law of *England*, whatsoever chattels, moveable or immoveable, or readie money shee bringeth, doth make them forthwith her Husbands owne, to bee disposed of, as hee will, leaving her at his courtesie, to bestow any thing or nothing of her at his death. The reason whereof is said to be, the holding of the wife in obedience to her husband. Onely if shee be an inheretrix, her husband holdeth the Land but during her life, except hee have issue by her: but then hee holdeth it by the courtesie of *England* during his owne life. See *Courtesie*. And againe, if he have any Land in fee, whereof hee was possessed during the marriage, shee is to have a third thereof during her life, though she bring nothing to him, except shee doe by fine release her right, during the marriage. So that here is no great matter to bee spoken of, but touching *dower* in the latter signification. You must know therefore that upon speech of marriage betweene two, the Parents of both sides are commonly

monly more carefull in providing each for his child, then the parties themselves: And that by their meanes there bee divers bargaines made, some time for the conveyance of lands, &c. to them and their issue: And this is said to be given in Franck marriage: sometime to her, during her life, and that before, or at the marriage: If before marriage, then it is called a Joynture. For a Joynture is a covenant, whereby the Husband, or some for him is tyed (*ratione junctura*) in consideration of the marriage, that the wife surviving him, shall have during her life, this or that tennement or lands, or thus much Rent yeerly payable out of such land, &c. with clause of distresse: and this may be more or lesse, as they do accord, *Britton*, cap. 101. whom read also, cap. 102, 103, 104. for *conventio vincit legem*. *Bracton*, li. 5. tractat 4. cap. 9. The diversitie of these Joyntures, you may see in *West. parte prima* symbol. li. 2. sect. 128, 129, 130, 131, 132, 133. But if none of these former bargaines passe before marriage, then must the wife stick to her Dower: and that is sometime given at the Church doore, or the Chappell doore, if the marriage be by Licence, but not the Chamber doore; and may bee what the

Husband will: so it exceed not a third part of his lands, *Glanvile*, lib. 6. cap. pri. Or the halfe, as some say, *Fitzh. nat. br. fol. 150. N. P.* And this Dower is either certainly set downe and named, or not named, but only in generally, as the law requireth: if it be not named, then it is by law, the third part, and called (*dos legitima*) *Bracton*, lib. 4. tract. 6. cap. 6. nu. 6, & 10. *Magna Charta* c. 7. or the halfe, by the custome of some countries, as in *Gavelkind* *Fitzh. nat. br. fol. 150. O.* And though it be named, it seemeth that it cannot be above halfe the lands of the Husband, *Fitzh. nat. br. fol. 150. P.* And the woman that will challenge this Dower, must make 3. things good, viz. that shee was married to her Husband, that hee was in his life time seized of the land whereof shee demandeth Dower, and that hee is dead, *Cokes reports*, lib. 2. *Binghames case*, fo. 93. a. Of these things see *Glanvile*, li. 6. cap. 1, 2, & 3. *Bracton*, lib. 2. cap. 38, 39. & lib. 4. tract. 6. cap. 1. & 6. and *Britton* cap. 101, 102, 103, 104. and *Fitzherb. nat. br. fol. 147, 148, 149, & 150.* And this customary Dower, seemeth to be observed in other nations, as well as in ours. *Hotoman verbo Dotalitium in verbis feudal: Cassan. de consuetud. Burg. pa. 580. 676. 677. & de conventional. p. 720.* And to these

joyne the grand Customarie of Normandy cap. 102. where you shall perceive, that in a manner all our law in this point is taken from the Normans. See *Endowment*. Of Dower read *Fleta* likewise, who writeth largely thereof, and hath many things worth the learning, li. 5. ca. 22. & seqq.

Dozene. See *Decennier*.

Drags. anno 6. H. 6. ca. 5. seeme to be wood or timber so joyned together, as swimming or floating upon the water, they may beare a burden or load of other wares downe the River.

Draw latches, anno 5. Edw. 3. cap. 14. & anno 7. Rich. 2. cap. 5. *Master Lamberd*, in his *Eirenarch*. lib. 2. cap. 6. calleth them *Miching* theives, as *Wasters* and *Roberd Jensen* mighty thieves, saying that the words be growne out of use.

Dreit Dreit, signifieth a double right that is *jus possessionis*, & *jus Domini*. *Bracton*, lib. 4. cap. 27. & lib. 4. tract. 4. cap. 4. & lib. 5. tract. 3. cap. 5.

Dry exchange, anno 3. H. 7. ca. 5. (*Cambium siccum*) seemeth to be a cleanly tearme invented for the disguising of foule usury, in the which something is pretended to passe of both sides, whereas in truth, nothing passeth but on the one side: in which respect it may well be called dry. Of this *Ludovicus Lopes tractat*. de

contract: & negotiatio. lib. 2. cap. pri. §. *Deinde post quam*. writeth thus, *Cambium est reale vel siccum*. *Cambium reale dicitur*, quod consistentiam veri Cambii realem habet, & *Cambium per trans*, & *Cambium minutū*. *Cambium autem siccum est Cambium non habens existentiam Cambii, sed apparentiam ad instar arboris excisate, quæ humore vitali jam carens apparentiam arboris habet non existentiam*. *Summa Sylv. Verbo Usura quasi*. 6. Est ergo *Cambium siccum juxta hanc acceptionem* (in quâ etiam accipitur in extrav. Pii quinti) idem quod *Cambium fictū*. Non autem habet propriam naturam Cambii, sed mutui & usuræ. At vero secundum *Laurentiū de Navarra in commento de usuris & Cambiis citatam*, *Cambium siccum in alia acceptione minus communi summum est Cambium*, in quo *Campfor prius dat quam accipiat*. Dicitur autem isto modo *siccum*, quia sine pravia acceptione dat *Campfor*. Quod tamen, ut sic acceptum (autore *Silvestro*) licite celebratur aliquando. Quid tunc verum & reale *Cambium* est differens genere ab eo *Cambio*, in quo *Campfor prius recipit*. Quia in isto *Campfor semper primò dat & deinde accipit*.

Drift of the Forest, seemeth to be nothing but an exact view or examination, what catell are in the Forest: that it may be known whether it be overcharged or

not, and whose the beasts be. This drift, when, how often in the year, by whom, and in what manner it is to be made. See *Mainwood*, parte 2. of his *Forest Lawes*, cap. 15.

Droit d' Advowzen. See *Recto de advocacione Ecclesie.*

Droit close. See *Recto clausum.*

Droit de dower. See *Recto dotis.*

Droit sur disclaimer. See *Recto sur disclaimer.*

Droit patent. See *Recto patent.*

Duces tecum, is a writ commaunding one to appeare at a day in the Chancerie, and to bring with him some piece of evidence, or other thing, that the court would view. See the new booke of Entries, verbo *Duces tecum*.

Duke (*Dux*) commeth of the French word (*Duc*.) It signifieth in antient times among the Romanes, (*Ductorem exercitus*) such as led their armies, who if by their prowesse they obtained any famous victory, they were by their souldiers saluted (*Imperatores*) as *Hotoman*, verbo *Dux*, de *verbis feudal.* proveth out of *Livy*, *Tully*, and others. Sithence that they were called *duces*, to whom the King or people committed the custody or regiment of any province. *Idem*, eod. And this seemeth to proceed from the Lombards or Germans, *Sigon. de regno Ital. l. 4.* In some nations

this day the Soveraignes of the country are called by this name, as Duke of Russia, Duke of Sweden. Here in England Duke is the next in secular dignitie to the prince of Wales. And (as *M. Cambden* saith) heretofore, in the Saxons times, they were called Dukes, without any addition, beeing but meere officers and leaders of armies. After the Conquerour came in, there were none of this title untill *Edward* the thirds dayes, who made *Edward* his son Duke of Cornwall. After that there were more made, and in such sort, that their titles descended by inheritance unto their posteritie. They were created with solemnitie, (*per cincturam gladij, cappaque & circuli aurei in capite impositionem*, vide *Camd. Britann. pag. 166. Zazium, de feudis parte 4. m. 7. & Cassan. de consuetud. Burg. pag. 6. & 10. and Ferns* glory of generositie, pag. 139.

Dutchy court, is a court, wherein all matters appertaining to the Dutchy of Lancaster, are decided by the decree of the Chancellor of that court. And the originall of it was in *Henry* the fourths dayes, who obtaining the Crowne by deposing *Richard* the second, and having the Dutchy of Lancaster by discent in the right of his mother, hee was seised thereof as King, and not as duke. So that all the liberties, franchises, and

Jurisdictions of the said *Dutchie* passed from the King by his grand Seale, and not by Liverie, or Attournment : as the possessions of *Everwicke*, and of the *Earldome of March*, and such others did, which had descended to the King by other Ancestors then the Kings, but at last, *Henry* the fourth, by authority of Parliament passed a Charter, whereby the possessions, liberties, &c. of the said *Dutchy* were severed from the Crowne : Yet *Henry* the 7. reduced it to his former nature, as it was in *Henry* the fifts dayes, *Cromptons Jurisd. fol. 136.* The officers belonging to this Court, are the Chancelour, the Attorney, Receiver generall, Clerke of the Court, the Messenger. Beside these there be certaine Assistants of this Court : as one Attorney in the Exchequer : one Attorney of the *Dutchy* in the Chancery, foure Learned men in the Law, retained of Councell with the King in the said Court. Of this Court, *M. Gwin*, in the Preface to his Readings thus speaketh. The Court of the *Dutchy* (or County Palatine of Lancaster) grew out of the grant of King *Edward* the third, who first gave the *Dutchy* to his Sonne *John of Gaunt* and endowed it with such Royall right, as the County Palatine of Chester had : And for as much, as it was

afterward extinct in the person of King *Henry* the fourth, by reason of the union of it with the Crowne : the same King suspecting himselfe to be more rightfully Duke of Lancaster, then King of England, determined to save his right in the *Dutchy*, whatsoever should befall of the Kingdome : and therefore hee separated the *Dutchy* from the Crowne, and settled it so in the naturall persons of himselfe and his heires, as if he had beene no King or Politick body at all : In which plight it continued, during the reigne of King *Henry* the 5. and *Henry* the 6. that were descended of him. But when King *Edw. the 4.* had (by recovery of the Crowne) recontinued the right of the house of *Torke*, hee feared not to appropriate that *Dutchy* to the Crowne againe : and yet so, that he suffered the Court and Officers to remaine as he found them. And in this manner, it came together with the Crowne, to King *Henry* the 7. who liking well of that Policie of K. *Henry* the 4. (by whose right also hee obtained the Kingdome) made like separation of the *Dutchy*, as he had done, and so left it to his posterity which do yet enjoy it.

Dum fuit infra etatem, is a writ which lieth for him, that before hee came to his full age, made a feof-

a feofment of his Land in fee, or for terme of life, or in taile, to recover them againe from him, to whom hee conveyed them, *Fitzh. nat. br. fol. 192.*

Dum non fuit compos mentis, is a writ that lyeth for him, that being not of sound memory, did alien any lands or tenements in fee simple, fee tayle, for terme of life, or of yeares, against the alience, *Fitz. nat. br. fol. 202.*

Duplicat, is used by *Crompton*, for a second Letters patent, granted by the Lord Chancellour, in a case, wherein hee had formerly done the same: and was therefore thought void. *Cromptons Jurisd. fol. 215.*

Dures (*Duritia*) commeth of the French (*dur. i. durus, vel durete. i. duritas*) and is in our common Law, a Plee used in way of exception, by him that being cast in prison at a mans suit, or otherwise by beating, or threats, hardly used, sealeth any Bond unto him during his restraint. For the law holdeth this not good, but rather supposeth it to be constrained. *Broke* in his *Abridgement* joyneth *Dures* and *Manasse* together. *i. duritiam & minas*, hardnes and threatening. See the new Booke of Entries, verbo *Dures*. And the *New Termes of Law*.

EA

E *Aldermans* (*Aldermannus*) among the Saxons, was as

much as Earle among the Danes. *Camden, Britan. pag. 107.* If yee goe to the true etimologie of the word, mee thinketh, it should sound more generally, so much as *ἡγεῖς* with the *Gracians*, or *Senator* with the *Romanes*: who were rather Councillors at large, then bestowed upon any particular office; as *Comites* were. See *Countie*. And that signification we retaine at this day almost in all our Cities, and Boroughs, calling those Aldermen, that are Associates to the Chiefe Officer in the common Councill of the Towne, anno 24. *H.8. cap. 13.* or sometime the chiefe Officer himselfe, as in *Stamford*.

Earle (*Comes*) in *M. Camdens* opinion, pag. 107. is a word made by the Danes of (*Ealderman*) a word of the Saxons. *M. Lamberd* seemeth notwithstanding to acknowledge, that *Earle* is originally a Saxon word, *Explica. of Saxon words. verbo Paganus*: and interpreteth it (*Sarrapan*) which word the *Romanes* borrowing of the Persians, applyed to those that were *praefecti provinciarum*. *M. Verstegan* in his restitution of decayed Intelligence, deriveth it from two Netherland words (*ear. i. honor*) and (*ethel. i. nobilis*) wherein I leave the Reader to his owne judgement. This title in ancient time, was given to those, that were Associates to the King in his Coun-

Councels and Marshall actions, (as *Comus* was to those that followed the Magistrates in Rome, and executed their offices for them as their Deputies, and died alwaies with the man. *Zasius* hath of this word thus much: *Comitum originem in Doctōribus non invenimus; sed noveris eam dignitatem vetustissimam esse. Nam Cor. Tacitus in libello de Germania scribit apud priscos usū fuisse receptum, ut cuilibet principi seu Duci exercitus duodecim comites assignarentur: ideo dictos, quia comitarentur eos, & à Ducem latere non decederent. Comitum itaq; originem Germanis moribus ortum esse, dictus receptissimus autor testis est. Quia propter quod in duodecimo libro odicis aliqui tituli de Comitibus largitionum, &c. inscribuntur, usurpationem Imperatoris ex Germanorum ritibus sumptum credo.* But the Conqueror (as *M. Camden* saith) gave this dignity in fee to his Nobles, annexing it to this or that Countie or Province, and allotted them for their maintenance a certain proportion of money rising from the Princes profits, for the pleadings and forfeitures of the Province. For example, he bringeth an ancient Record in these words: *Henricus 2. Rex Anglie his verbis Comitem creavit: Sciatis nos fecisse Hugonet Bigot Comitem de Nortfolke. sc: de tertio denario de Normic. &*

Northfolk sicut aliquis comes Anglie liberius comitatum suum tenet. Which words (saith the same Author) an old book of *Battell Abbey* thus expoundeth: *Consuetudinaliter per totam Angliam mos antiquitus inoleverat. Comites provinciatum tertium denarium sibi obtinere, inde Comites dicti.* And another booke without name more fully. *Comitatus à Comite dicitur, aut vice versa, Comes autem est, quia tertiam portionem eorum, qua de placitis proveniunt, in quolibet Comitatu percipit. Sed non omnes Comites isti percipiunt: sed hii quibus Rex hereditario aut personaliter concessit.* You may read *M. Fern* in *Lacyse* nobility, something to this effect, pag. 12. But he saith that one Duke or Earle had divers Shires under his government, as a viceroy, and had Lievetenants under him in every particular Shire, called a Sheriffe. That one Earle was dignified by the appellation, or more then one Sheriffe, it appeareth by divers of our ancient Statutes, as namely by the sentence of Excommunication, pronounced by the Bishops, against the infringers of the great Charter, and charter of the Forest, anno 38. H. 3. Roger Bigot is named Earle both of Northfolk and Southfolke, and anno 1. Ed. 3 Thomas Earle of Lancaster and Leycester. Humfrey Bohun, Earle of Hereford

furd and Essex. Dyer, fo. 285. num. 39. At these dayes, as long since, the Kings of England make Earles by their Charters, of this or that Countie, giving them no authority over the Countie, nor any part of the profit rising of it, but onely some annuall stipend out of the Exchequer, rather for honours sake, than any great commoditie. And these bee in other nations accounted Earles improperly, *Quia illi dicuntur vere Comites, quibus datur Comitatus in feudum: illi Comites abusive, qui non habent administrationem. Vincentius de Franchis, desc. 115. nu. 7.* The manner of creating Earles is by girding them with a Sword. *Camden pag. 107.* but see the solemnitie thereof described more at large in *Stowes annals pa. 1121.* The occasion why these Earles in latter times have had no sway over the County, whereof they beare their name, is not obscurely signified in *Sir Tho. Smith lib. 2. cap. 14.* where he saith, that the Sheriffe is called *Vicecomes* as (*Vicarius Comitis*) following all matters of justice, as the Earle should doe: and that because the Earle is most commonly attendant upon the King, in his warres or otherwise. So that it seemeth that Earles by reason of their high employments, being not able to follow also the businesse of the County, were delivered of all

that burthen, and onely enjoyed the honour, as now they doe. And the Sheriffe, though he be still called *Vicecomes*, yet all he doth, is immediatly under the King, and not under the Earle. See *Countie*, and see *Hotoman. de verb. feudat. verbo Comes*: and *Cassan. de consuetud. Burg. pa. 12.*

Easement, (*esamentum*) is a service that one neighbour hath of another by Charter or prescription, without profit, as a way through his ground, a finke, or such like. *Kitchin fol. 105.* which in the Civill Law is called *Servitus praedii.*

Eele fares, alias, *Eele Vares. anno 25. H. 8. cap. be the frie or brood of Eeles.*

Egyptians, (*Egyptiani*) are in our Statutes and Lawes of England, a counterfeit kinde of Rogues, that being English or Welsh people, accompany themselves together, disguising themselves in strange roabes, blacking their faces and bodies, and framing to themselves an unknowne Language, wander up and downe, and under pretence of telling of Fortunes, curing diseases, and such like, abuse the ignorant common people, by stealing all that is not too hot or too heavie for their carriage. *anno 1. & 2. Philip. & Mar. cap. 4. anno 5. Eliz. cap. 20.* These are very like to those whom the Ita-

lians call *Cingari*: of whom *Franciscus Leo in suo thesaur. fori Ecclesiastici parte prim. cap. 113.* thus writeth: *Cingari, qui corrupto vocabulo, quandoque etiam Saraceni nominantur, & permissione principum ac aliorum dominorum, per Italiam vagantur, nec unquam viderunt partes infidelium, minusque legem Mahometi noverunt: sed sunt fere omnes Itali, & male habitati, ex rebis furtivis vivunt, ac fraudulentis eorum permutationibus & ludis, in quibus ut plurimum fraudes committunt, & sunt baptizati.*

Ejectione custodie, Ejectment de gard, is a Writ which lyeth properly against him, that casteth out the Gardian from any land, during the minoritie of the Heire. *Regist. orig. fol. 162. Fitzh. nat. br. fol. 139. Termes of the Law. verbo Gard.* There bee two other writs not unlike this: the one is termed *Droit de gard*, or right of guard, the other *Ravishment de guard*. Which see in their places.

Ejectione firmæ, is a writ which lyeth for the Lessee for terme of yeares, that is cast out before the expiration of his terme, either by the leassour or a stranger. *Regist. fol. 227. Fitz. nat. br. fol. 220.* See *Quare eiecit infra terminum*. See the new booke of Entries. *verbo Ejectione firmo.*

Emicia, is borrowed of the French, *Aisne. i. primogenitus* and

signifieth in our Common Law, Eldership. *Statute of Ireland, anno 14. Hen. 3.* Of this see *M. Skene de verb. signif. verbo. Eneya.*

Eyre, alias, Eyre, (Iter. Bracton lib. 3. cap. 11. in Rubrica) cometh of the old French word (*Erre. i. iter*) as (*à grand erre. i. magni itineribus.*) It signifieth in Britton. *cap. 2.* the Court of Justices Itinerants: and Justices in Eyre, are those onely, which Bracton in many places calleth (*Justiciarii itinerantes*) of the Eyre, reade Britton ubi supra, who expresseth the whole course of it. And Bracton *lib. 3. tractat. 2. ca. 1. & 2.* The Eyre also of the Forrest is nothing, but the Justice Seate, otherwise called: which is or should by ancient custome, bee held every three yeare by the Justices of the Forrest, journeying up and down to that purpose. *Cromptons Jurisd. fol. 156. Manwood parte prima* of his Forrest lawes. *pag. 121.* See *Justice in Eyre*. Read *Skene de verborum significat. verbo. Iter*: whereby, as by many other places, you may see great affinity between these two Kingdomes in the administration of Justice and government.

Electio de Clerke (Electio clericus) is a writ, that lyeth for the choice of a Clerke, assigned to take and make bonds called *statute Merchant*: and is granted out of the Chancery upon suggestion

gession made, that the Clerke formerly assigned, is gone to dwell in another place, or hath hinderance to let him from following that businesse, or hath not land sufficient to answer his transgression, if hee should deale amisse, &c. *Fitzh. nat. brev. fol. 164.*

Elgit, is a writ Judiciall, and lyeth for him that hath recovered debt, or dammages in the Kings Court, against one not able in his goods to satisfie: and directed to the Sheriffe, commanding him that hee make delivery of halfe the parties lands or tenements, and all his goods, Oxen and Beasts for the Plough excepted, *Old. nat. br. fol. 152. Regist. orig. fol. 299. & 301.* and the table of the Register Judiciall, which expresth divers uses of this writ. The author of the new Termes of Law saith, that this writ should bee sued within the yeare, whom reade at large for the use of the same.

Elk, a kinde of Ewe to make Bowes of, *anno 33. H. 8. ca. 9.*

Empanel (*Impanellare*, *Ponere in assis & Jurati*) commeth of the French (*Panne. i. pellis*) or of (*Panneau*) which signifieth some time as much as a Pane with us, as a pane of glasse, or of a window. It signifieth the writing or entring the names of a Jury into a parchment Schedule or

Roll or paper, by the Sheriffe, which hee hath summoned to appeare for the performance of such publike service, as Juries are imployed in. See *Panell*.

Empar lance, commeth of the French (*Parler*) and signifieth in our common Law, a desire or petition in Court of a day to pause, what is best to doe. The Civilians call it (*petitionem induciarum*) *Kitchin, fol. 200.* interpreteth it in these words: If hee imparle or pray continuance. For praying continuance is spoken *interpretative* in that place, as I take it. The same Author maketh mention of *Empar lance* generall, *fol. 201.* and *Empar lance* speciall, *fol. 200.* *Empar lance* generall seemeth to bee that which is made onely in one word, and in generall termes. *Empar lance* speciall, where the party requireth a day to deliberate, adding also these words: *Salvis omnibus advantagiis tam ad jurisdictionem Curie quam ad breve & narrationem*, or such like: *Britton* useth it for the conference of a Jury upon the cause committed unto them, *cap. 53.* See *Impar lance*.

Emprovement. See *Improvement*.

Encheson, *A. 50. Ed. 3. cap. 3.* is a French word, signifying as much as occasion, cause, or reason wherefore any thing is done. See *Skene de verbo. significat. verbo Encheson*.

Encroachment or *Accroachment*, commeth of the French (*Accrocher*) i. *apprehendere* ; *inincare*, *harpagare*) and that commeth of (*Crochure*. i. *aduncitas*) or (*crochu* .i. *aduncus*) *Encroachment*, in our Common Law, signifieth an unlawfull gathering in upon another man. For example, if two mens grounds lying together, the one presseth too farre upon the other : or if a Tenant owe two shillings rent service to the Lord, and the Lord taketh three : So *Hugh* and *Hugh Spencer* encroched unto them royall power and authority, *anno prim. Ed. 3. in prim.*

Inditement (*Indictamentum*) commeth of the French (*Enditer*. i. *deferre nomen alicujus*, *indicare*) or from the Greeke *ἰνδίκην*, because *M. Lamberd* will have it so. *Eirenar. lib. 4. cap. 5. pag. 468.* It signifieth in our Common Law, as much as (*Accusatio*) in the Civile Lawe, though it have not in all points the like effect. *West. part. 2. symb. titulo, Inditements*) defineth it thus : An Inditement is a Bill or declaration made in forme of Lawe) for the benefite of the Common wealth) of an accusation for some offence, either criminall or penall, exhibited unto Jurours, and by their verdict found and presented to bee true, before an Officer having power

to punish the same offence. It is an accusation, because the Jury that inquired of the offence, doth not receive it untill the party that offereth the Bill, appeare so farre in it, as to subscribe his name, and offer his oath for the truth thereof. It differeth from an Accusation in this, that the preferrer of the Bill is no way tyed to the prooffe thereof upon any penaltie, if it be not proved, except there appeare conspiracie. Wherefore, though moved by *M. West* authoritie, I call it an Accusation : yet I take it to be rather (*Denunciatio*) because it is of Office done by the great Enquest, rather then of a free intent to accuse. Of this you may reade *S. The, Smith de Repnb. Anglor. lib. 2. cap. 19.* and *Stamf. pl. cor. lib. 2. cap. 23, 24, 25, 26. &c. Usq, 34.* and *M. Lamberds Eirenarcha. lib. 4. ca. 5.* whence you may receive good satisfaction in this matter.

Endowment (*dotatio*) commeth of the French (*Douaire*) and signifieth the bestowing or assuring of a Dower. See Dower. But it is sometime used Metaphorically, for the setting forth or severing of a sufficient portion, for a Vicar toward his perpetuall maintenance, when the Benefice is appropriated. See Appropriation. And the Statute, *A. 15. R. 2. cap. 6.*

Endow-

Endowment de la plus Belle parte is where a man dying seized of some lands, holding in Knights service, and other some in socage, the widow is sped of her Dower, rather in the lands holding in socage, then Knights service. Of this reade *Littleton* more at large, *lib. 1. cap. 5.*

Enfranchisement, commeth of the french (*Franchise. i. libertas*) and is in a manner a french word of it selfe: it signifieth in our common law, the incorporating of a man in any society, or body politicke. For example, he that by Charter is made Denizen of *England*, is said to be enfranchised; and to is hee that is made a Citizen of *London*, or other City, or Burgesse of any Towne Corporate, because hee is made partaker of those liberties that appertain to the Corporation, wherinto hee is enfranchised. So a villaine is enfranchised, when hee is made free by his Lord, and made capable of the benefits belonging to free-men.

Englecerie (*engleceria*) is an old abstract word, signifying nothing else but to be an Englishman. For example, if a man be privily slaine or murdered, hee was in old time accounted (*Francigena*) which word comprehendeth every alien, untill *Englecerie* was proved: that is, untill it were made manifest, that

hee was an English man. A man may marvell, what meaning there might bee in this: but *Bracton* cleareth the doubt, who in his third booke, *tract. 2. cap. 15. num. 3.* telleth us, that when *Cannus* the Danish King, having seized his estate here in peace, did at the request of our Barons, disburden the land of his armie, wherein hee accounted his greatest safety: and conditioned with them, that his countrey men which remained here, should continue in peace: and the more to secure that, that for every *Francigena* (under which word, (as is abovesaid) hee comprehended all outlandish men and women, and especially *Danes*) that was secretly murdered, there should be levied to his *Treasurie* 66. markes out of the village, where the murder was committed, or out of the Hundred, if the Village were not able to pay it: and further, that every man murdered, should bee accounted *Francigena*, except *Englecery* were proved: which, how it was to be proved, looke the 7. number in the same chapter. And see also *Horns mirror of Justices, lib. 1. cap. del office del coroner*, and *Fleta lib. 1. cap. 30.* This *Englecerie*, for the abuses and troubles that afterward were perceived to grow by it, was cleane taken away, by a Statute made anno

14. *Edward. 3. capite quarto.*

Inheritance. See *Inheritance.*

Enquest (*Inquisitio*) is all one in writing with the French word, and all one in signification, both with the French and Latine. Howbeit, it is especially taken for that inquisition, that neither the Romanes, nor French men ever had use of, that I can learne. And that is the *Enquest* of Jurors, or by *Jurie*, which is the most usuall triall of all causes, both Civill and Criminall in our realme. For in causes Civill, after prooffe is made on either side, so much as each partie thinketh good for himselfe, if the doubt bee in the fact, it is referred to the discretion of twelve indifferent men, empaneled by the Sheriffe for the purpose: and as they bring in their verdict, so judgement passeth. For the Judge saith, the *Jurie* findeth the fact thus: then is the law thus: and so wee judge. For the enquest in causes Criminall, see *Jurie*; and see *Sir Thomas Smith de Repub. Anglor. li. 2. ca. 19.* An enquest is either of office, or at the misse of the party. *Stawm. pl. cor. lib. cap. 12.*

Entendment commeth of the French (*entendiment. i. intellectus, ingenium.*) It signifieth in our common law, so much as the true meaning or signification of a word or sentence. See of this *Kitchin, fol. 224.*

Entayle (*fidum talliatum*) commeth of the French (*entaille. i. infcisum*) and in our common law, is a substantive abstract, signifying Fee-taile, or Fee-intailed. *Lisleton* in the second chapter of his booke, draweth Fee-taile from the verbe *Talliare* (which, whenee it cometh, or whether it will, I know not) whereas in truth it must come from the French (*taille. i. sectura*), or (*tailler. i. scindere, secare.*) And the reason is manifest, because Fee-taile in the Law, is nothing but Fee abridged, scanted or curtailed, (as you would say) or limited and tyed to certaine conditions. *Taille* in France, is metaphorically taken for a tribute or subsidie. *v. Luperanum de Magistratibus Francorum. lib. 3. cap. Taka.* See *Fee*. See *Tayle*.

Enterpleder (*Interplacitare*) is compounded of two French words (*entre. i. inter*) and (*pler. i. disputare*) and it signifieth in our common Law, as much as *cognitio præjudicialis* in the Civill Law: that is, the discussing of a point incidently falling out, before the principall cause can take end. For example, two severall persons, being found heires to land, by two severall offices in one Countie, the King is brought in doubt to whether livery ought to be made: and therefore before

fore Livery be made to either: they must enterplead; that is, formerly trie betweene themselves, who is the right heire. *Stannf. preroga. chap. 19.* See more examples in *Broke*, titulo *Enterpleder*.

Entiere tenancie, is contrary to severall Tenencie, signifying a sole possession in one man: whereas the other signifieth joynt or common in more. See *Broke* severall tenencie. See the new booke of Entries, *verba Entier tenancie*.

Entry (*Ingressus*) commeth of the French (*entree*, i. *introitus*, *ingressus*, *aditus*) and properly signifieth in our common Law, the taking possession of lands or tenements. See *Plowden*. Assise of fresh force in *London*, fol. 93. b. It is also used for a writ of possession, for the which, see *Ingressu*. And read *West* also, *parte 2. Symbol. titulo Recoveries*, Sect. 2. & 3. Who there sheweth for what things it lyeth, and for what it lyeth not. Of this *Britton* in his 1. 14. chapter writeth to this effect. The writs of entrie favour much of the right of povertie. As for example, some be to recover customes and services: in the which are contained these two words (*solet & debet*) as the writs *Quo jure*, *Rationalibus divisis*, *rationalis est overio*, with such like. And in this plee of entrie

there bee three degrees: The first is, where a man demandeth lands or tenements of his owne seisin, after the terme is expired. The second is, where one demandeth lands or tenements, let by another after the terme expired. The third, where one demandeth lands or tenements of that tenant, that had entry by one, to whom some Ancestour of the Plaintiffe did let it for a terme now expired. According to which degrees, the writs for more fit remedy are varied. And there is yet a fourth forme, which is without the degrees, and in case of a more remote Seisin, whereunto the other three degrees do not extend. The writ in the second degree is called a writ of entry *in le per*: and a writ in the third degree is called a writ of entrie *in le per & cui*: and the fourth forme without these degrees, is called a writ of entry *in le poss*: that is to say, after the disseisin which such a one made to such a one. And if any writ of entry bee conceived out of the right case, so that one forme bee brought for another, it is abateable. The forme of the first degree is such. *Præcipe Willielmo quod reddat Petro manerium de B. cum pertinentiis quod ille dimisit pro termino, quiesce lapsus*. The second is such: *Præcipe Petro quod reddat Willielmo manerium*

rium, &c. in quod ille non habuit ingressum nisi per patrem aut matrem, avunculum, vel amitam, vel cognatum, avum vel proavum dicti Petri qui dictum manerium dimisit pro termino qui est elapsus. The third forme is such : *Præcipe Johanni quod reddat Petro manerium de S. in quod ille non habuit ingressum nisi per T. cui talis pater vel mater, vel alius antecessor aut cognatus idem dimisit, cujus hæres est ipse Petrus, pro termino, qui est elapsus.* And the forme without the degrees is such : *In quod non habuit ingressum, nisi post lessam, quam talis pater aut mater (sic ut supra) cujus hæres ille est, inde fecit pro termino, qui est elapsus.* And in those foure degrees be comprehended all manner writs of entry, which be without certaintie and number. Thus farre Britton : by whom you may perceive, that those words (*solet & debet*) and also those other words (*in le per*) (*in le per & cui*) and (*in le post*) which wee meete with many times in bookes shortly and obscurely mentioned, doe signifie nothing else, but divers formes of this Writ, applyed to the case, whereupon it is brought, and each forme taking his name from the said words contained in the writ. And of this reade Fitzb. in his *nat. brev. fol. 193. & 194.* This writ of entry differeth from an assise, because it lyeth for the

most part against him, who entered lawfully, but holdeth against Law : whereas an Assise lyeth against him that unlawfully disseised : yet sometime a writ of entrie lyeth upon an entrusion. *Regi. orig. fol. 233. b.* See the new book of Entries, verbo *Entre Brevis fol. 254. colum. 3.* I reade of a writ of entry in the nature of an assise. Of this writ in all his degrees, reade *Fleta, lib. 5. cap. 34. & seqq. 5.*

Entrusion (Intrusio) in our common Law, signifieth a violent or unlawfull entrance into lands or tenements, being utterly void of a possessor, by him that hath no right, nor sparke of right unto them, *Bracton, lib. 4. cap. 2.* For example, if a man step in upon any lands, the owner whereof lately dyed, and the right heire, neither by himselfe nor others, as yet hath taken possession of them. What the difference is betweene *Abator* and *Intrudor*, I doe not well perceive, except an Abatour he bee that steppeth into land void by the death of a tenant in fee, and an Entrudour that doth the like into lands, &c. void by the death of the tenant for termes of life or yeeres. See *Fitzb. nat. br. fol. 203. F.* The author of the new Termes of Law would have abatement Latined, (*Interpositionem, aut Introitionem per interpositionem*) and to be restrained

strained to him that entreth before the heire after the decease of a tenant for life, though the new booke of Entries, fol. 63. C. & 205. D. & 519. C. by his confession doth Latine (*Abatement*) by this word (*Intrusionem.*) See *Abatement*. See *Disseisin*. See *Britton cap. 65.* *Entrusion* is also taken for the Writ brought against an Intruder, which see in *Fitzb. nat. br. fol. 203.*

Entrusion de gard, is a Writ, that lyeth where the Infant within age entred into his lands and holdeth his Lord out: for in this case, the Lord shall not have the Writ (*De communi custodia.*) But this *Old nat. br. fo. 90.*

Errare, signifieth to take place or effect, to be available, Example: A Release shall *errare* by way of extinguishment. *Littleton cap. Release.* And a release made to a tenant for terme of life, shall inure to him in the Reversion.

Erius, alias *Iris*, is the *Flower de lyce*, whose divers kindes you have expressed in *Gerards Herball. lib. 1. cap. 34.* The root of this is mentioned among Merchandize or Drugs to bee garbled *anno 1. Jaco. cap. 19.*

Ermins seemeth to come of the French (*Ermine i. mus araneus.*) It signifieth a Furre of great price.

Erminstrete, see *Wailingstreet*. *Errant* (*Itinerans*) commeth

of the French (*Error. i. errare*) or the old word (*Erre. i. Iter.*) It is attributed to Justices of circuit. *p. cor. fol. 15.* and *Baylifes* at large. See Justices in *Eyre.* and *Bayliffe*. See also *Eyre*.

Errour (*Error*) commeth of the French (*Erreur*) and signifieth more specially in our Common Law, an error in pleading, or in the proces, *Brooke, titulu Errour*. And thereupon the Writ, which is brought for remedy of this oversight, is called a Writ of error, in Latine, *De errors corrigendo*: thus defined by *Fitzb. in his nat. br. fol. 20.* A Writ of *Errour* is that properly, which lyeth to redresse false judgement given in any Court of Record, as in the Common bench, *London*, or other Citie, having power (by the Kings Charter or prescription) to hold plee of debt. See the new booke of Entries. *verbo Error.* or trespassse above the summe of twenty shillings. This is borrowed from the French practise, which they call (*proposition d'erreur.*) Whereof you may reade in *Gregorius De appellation. pag. 36.* In what diversitie of cases this Writ lyeth, see the *Register originall* in the Table, *verb. Errore corrigendo*, and *Register judiciall fol. 34.* There is likewise a Writ of *Errour* to reverse a *Fine. West. parte 2. sect. Symbol. titulu Fines. 151.*

Errore corrigendo. See *Error.*

Escambio, is a licence granted to one for the making over of a Bill of Exchange to a man over Sea. *Register. Original. fol. 194. a.*

Escape (escapium) commeth of the French (*eschapper. i. aufugere, effugere:*) and signifieth in the Law, a violent or privie evasion out of some lawfull restraint. For example, if the Sheriffe upon a *Capias* directed unto him, take one, and indeavour to carry him to the Goale, and hee in the way, either by violence or by slight, breake from him: this is called an *escape. pl. cor. fol. 70.* Many examples might bee brought out of him and others, but the thing is plaine: *Stawford. lib. 1. cap. 26. pl. cor.* nameth two kindes of *Escapes*, *voluntarie and negligent*: *Voluntarie* is, when one arresteth another for felonie or some other crime, and afterwards letteth him goe whither he listeth. In which escape the partie that permitteth it, is by Law guilty of the fault committed by him that escapeth, bee it Felony, Treason, or Trespas: *Negligent* escape is, when one arrested, and afterward escapeth against his will that arrested him, and is not pursued by fresh suite, and taken againe, before the party pursuing hath lost the sight of him: *Idem cap. 27.* but

there reade more of this matter, for there bee doubts worth the consideration. And of the course of punishment by the Civill Law in this point, reade in *Practica criminali Claudi de Battandier. reg. 143.* reade also *Cromptons Justice fol. 35. b. & fol. 36. & 37.* and reade the *new Termes of Law.* There is an escape of beasts likewise: and therefore hee that by charter, is *quietus de escapio* in the forrest, is delivered of that punishment, which by order of the forrest, lyeth upon those whose beasts bee found within the land forbidden: *Cromptons Jurisdic. fol. 198.*

Eschequer (Scaccarium) cometh of the French (*Eschequier, i. abacus, tabula hisoria*) and signifieth the place or Court of all receipts belonging to the Crowne, and is so termed as I take it, by reason that in auncient times, the accomptants in that Office used such Tables as *Arithmeticians* use for their calculations, for that is one signification of (*Abacus*) amongst others. *Polidor. Virgil. lib. 9. bift. Anglo.* saith that the true word in Latine is *Statarium*, and by abuse called *Scaocarium*. In mine opinion it may well seeme to be taken from the German word (*Schatz*) signifying as much as (*Treasure*) or (*Fiscus*.) And from this fountaine (no doubt)

spring-

springeth the Italian word (*Zeccha*) signifying a mint: and *Zeccherii* alias *Zechieri*) the officers thereunto belonging, *Deseif. Genuen* 134. *M. Cam.* in his *Britan.* pag. 113. saith that this Court or office tooke the name à *tabula ad quam assidebant*, proving it out of *Gervasius Tilburienfis*, whose words you may reade in him. This Court is taken from the *Normans*, as appeareth by the *Grand Customarie*, cap. 56. where you may finde the *Eschequier* thus described. The *Eschequier* is called an assembly of High Justiciers, to whom it appertaineth to amend that which the Bailiffes, and other meaner Justiciers have evill done, and unadvisedly judged: and to doe right to all men without delay, as from the Princes mouth: *Skene de verbo. significatione, verbo (Scaccarium)* hath, out of *Paulus Aemilius* these words: *Scaccarium dicitur quasi Statarium, quod homines ibi in jure sistantur, vel quod sit stataria & perennis Curia, cum cetera curie essent indictiva, nec loco, nec tempore stata*: where hee saith also of himselfe, that in Scotland the *Eschequier* was stable, but the other Session was deambulatorie, before *James* the first: *qui instituit Statariam curiam, cum antea esset indictiva*: hee addeth farther: Others thinke that *Scaccarium* is

so called à *similitudine ludi Scaccorum*, that is the play of the chests: because many persons meet in the Chequer, pleading their causes one against the other, as if they were fighting in an arraied battell: Others thinke that it commeth from an old Saxon word (*Scata*) as writeth *S. Thomas Smith*, which signifieth Treasure, taxation, or Imposts, whereof account is made in the Chequer: This Court consisteth, as it were, of two parts: whereof one is conversant especially in the judiciall hearing and deciding of all causes appertaining to the Princes Cofers, anciently called *Scaccarium computorum*, as *Ockam* testifieth in his *lucubrations*: the other is called the receite of the *Eschequier*, which is properly employed in the receiving and payment of money. *Crompton* in his *Jurisdictions*, fol. 105. defineth it to be a Court of record, wherein all causes touching the revenues of the Crowne are handled. The officers belonging to both these, you may finde named in *M. Camdens Britannia*, ca. *Tribunalia Anglie*, to whom I refer you. The Kings Exchequer which now is seled in *Westminster*, was in divers Counties of *Wales*, anno 27. H. 8. cap. 5. but especially cap. 26.

Escheate (*Escheata*) commeth of the french (*eschecoir. i. cadere, accidere*,

dere, excidere, and signifieth in our common law, any lands, or other profits, that fall to a Lord within his Manor by way of forfeiture, or the death of his tenant, dying without heire generall, or especiall; or leaving his heire within age, or unmarried, *Magna Charta, cap. 31. Fitzber. nat. br. fol. 143. T. &c.* Escheat is also used sometime for the place or circuit within the which the King, or other Lord hath escheats of his tenants, *Bracton, lib. 3. tract. 2. ca. 2. & pupilla oculi parte 2. cap. 22.* Escheat thirdly, is used for a writ, which lieth, where the tenant having estate of fee-simple in any lands or tenements holden of a superior Lord, dyeth seised without heire generall or especiall. For in this case the Lord bringeth this writ against him that possesseth these lands after the death of his tenant, and shall thereby recover the same in lieu of his services, *Fitz. nat. br. fol. 144.* These that wee call Escheats, are in the Kingdome of Naples called *Excadentia*, or *bona excadentialia*, as: *Baro locat excadentias eo modo quo locat fuerunt ab antiquis: ita quod in nullo debita servitia minuantur, & non remittit gallinam debitam: Jacobutius de Franchis in preliis ad feudorum usum, tit. 1. num. 29. & num. 23. v. Morante singularia, verbo Excadentia.* And in the

same signification, as wee say the fee is escheated, the Feudists use *feudum aperitur. lib. 1. feudat. titulo, 18. §. 2. titul. 15. & titul. 26. §. 4.*

Escheatour (*Escheator*) commeth of (*Escheate*) and signifieth an officer that observeth the Escheats of the King in the County, whereof hee is *Escheatour*, and certifieth them into the *Eschequer*: This officer is appointed by the L. Treasurer, and by Letters Patents from him, and continueth in his office but one yeare, neither can any be *Escheatour* above once in three yeares, *anno 1. H. 8. cap. 8. & anno 3. ejusd. ca. 2.* See more of this officer and his authority in *Cromptons Justice of peace*, See *an. 29. Ed. 1.* The forme of the *Escheatours* oath, see in the Register originall *fol. 301. b.* *Fitz.* calleth him an officer of record, *nat. br. fol. 100. C.* because that which hee certifieth by vertue of his office, hath the credit of a record. *Officium escheatrie*, is the *Escheatourship*. *Registr. orig. fol. 259. b.*

Escuage (*Scutagium*) commeth of the French (*escu. i. chypen*) a buckler or shield. In our common law, it signifieth a kind of Knights service, called service of the Shield, whereby the tenant holding, is bound to follow his Lord into the *Scottish* or *Welsh* wars, at his own charge: for the

the which see *Chivabrie*. But note that *Eſcuage* is either uncertaine or certaine. *Eſcuage* uncertaine, is properly *Eſcuage*, and Knights ſervice, being ſubject to homage, fealty, ward and marriage, ſo called, becauſe it is uncertaine how often a man ſhall be called to follow his Lord into thoſe wars, and againe, what his charge will be in each journey. *Eſcuage* certaine, is that which yearly payeth a certaine rent in lieu of all ſervices, being no further bound then to pay his rent, called a Knights fee, or halfe a Knights fee, or the fourth part of a Knights fee, according to his land, and this leſſeth the nature of Knights ſervice, though it hold the name of *Eſcuage*, being in effect, *Soccage*. *Fitzher. nat. br. fol. 84. C.*

Eſney (*Æſuecia*) is a prerogative given to the eldeſt Coparcener, to chuſe firſt, after the inheritance is divided, *Flt. li. 5. ca. 10. §. in diſiſionem*.

Eſples (*Expletia*) ſeeme to be the full profits that the ground or land yeeldeth, as the Hay of the Meadows, the Feed of the Paſture, the corne of the Earable, the Rents, Services, and ſuch like iſſues: *Ingham*. It ſeemeth to proceed from the Latine (*Expleo*) The profits comprized under this word, the Romanes call properly *acceſſiones*. *Nam acceſſionum no-*

mine intelliguntur ea generaliter omnia, que ex re, de qua agitur, orta ſunt, veluti fructus, partus, & omnis cauſa rei, & quæcunque ex re procedunt. li. 2. 7 De in diem adjectio, li. 50. 7. Ad Trebel. li. 61. §. hiis etiam. 7. de ſurt. See the new Termes of law.

Eſquier (*Armiger*) is in letters little altered from the French (*Eſcuier. i. ſcutiger*) It ſignifieth with us a Gentleman, or one that beareth armes, as a testimony of his nobility or gentry. *S. Thomas Smith* is of opinion, that at the firſt, theſe were Bearers of armes to Lords and Knights, and by that had their name and dignity. Indeed the French word is ſometime translated (*Agas*) that is, a Boy to attend or keep a horſe; and in old Engliſh writers, it is uſed for a Lackey, or one that carrieth the ſhield or Speare of a Knight. *Maſt. Comben in his Britannia, pag. 111.* hath theſe words of them; having ſpoken of Knights: *Hiis proximi ſuere Armigeri, qui & ſcutiferi, hominesq; ad arma dicti, qui vel à chypis gentilitiis, qua in nobilitatis inſignia geſtant: vel qui a principibus & maioribus illius nobilibus ab armis erant, nomen traxerunt. Olim enim ex hiis duo unicuique militi ſerviebant, galans chypumq; geſtabant. &c. Holoman in the ſixth chapter of his Diſputations upon the Feods ſaith, that theſe which the*

French men call (*Eſcuiers*) were a Military kind of vassall having *jus ſcuti*, which is as much to say (hee there interpreteth himselfe) as that they bare a Shield, and in it the ensignes of their family, in token of their Gentility or Dignity.

Esſendi quietum de telonio, is a writ that lyeth for Citizens and Burgesſes of any City or Towne, that have a Charter or Prescription to exempt them from tolle, through the whole Realme, if it chance they be any where exacted the same, *Fitz. nat. br. fol. 226. Regiſt. fol. 238.*

Esſoine (*essonium*) commeth of the French (*essoniè* or *exonniè*. i. *causarius miles*) hee that hath his presence forborne or excused upon any just cause, as sicknesse or other incumbrance. It signifieth in our common law, an alledgement of an excuse for him that is summoned, or sought for to appeare, and answer to an action reall, or to performe suit to a Court Baron, upon just cause of absence. It is as much as (*excusatio*) with the Civilians. The causes that serve to *essoine* any man summoned, be divers and infinite: yet drawne to five heads: whereof the first is (*ultra mare*) the second (*de terra ſaueta*) the third (*de malo veniendi*) which is also called the common *Esſoine*, the fourth is (*de malo lecti*) the

fifth (*de ſeruitio Regis*.) For further knowledge of these, I refer you to *Glarvile*, in his whole first booke, and *Bracton*, li. 5. tractat. 2. per totum, and *Britton*, cap. 122, 123, 124, 125. and to *Horns mirrour of Juſtices*, li. 1. ca. des *Esſoines*, who maketh mention of some more *essoines* touching the service of the King celestiall, then the rest doe, and of some other points not unworthy to be knowne. Of these *essoines* you may read further in *Flet. li. 6. ca. 8. & ſeqq.* and that these came to us from the Normans, is well shewed by the *Grand Cuſtumarie*, where you may find in a manner all said, that our Lawyers have of this matter, cap. 39, 40, 41, 42, 43, 44, 45.

Esſoines and *proſers*, anno 32. H. 8. cap. 21. See *Proſer*.

Esſonio de malo lecti, is a writ directed to the Sheriffe, for the ſending of foure lawfull Knights to view one that hath *essoined* himselfe *de malo lecti*, *Regiſt. orig. fo. 8. b.*

Eſtabliſhment of dower ſeemeth to be the assurance of dower, made to the wife by the husband or his friends, before or at marriage. And assignement is the setting it out by the heire afterward, according to the *Eſtabliſhment*, *Britton*, cap. 102. & 103.

Eſtandard or *Standard*, commeth

meth of the French (*estandard*) or *estendart*. i. *signum*, *vexillum*. It signifieth an Ensigne in warre, as well with us as with them. But it is also used for the principall or standing measure of the King, to the scantling whereof, all the measures thoroughout the Land, are, or ought to bee framed by the Clerke of the Market, *Aulneger*, or other Officer, according to their functions. For it was established by the Statute of *Magna Charta*, anno 6. H. 3. cap. 9. That there should bee but one scantling of Weights and Measures through the whole Realme, which is thence confirmed by Anno 14. Edm. 3. cap. 12. and many other Statutes; as also, that all should be fitted to the *Standard*, sealed with the Kings Seale. It is not called a Standard without great reason: because it standeth constant and immooveable, and hath all other Measures comming toward it for their conformitie, even as Souldiers in field have their Standard, or Colours for their direction in their march or skirmish. Of these Standards and Measures, reade *Britton*, cap. 30.

Estate, commeth of the French (*estat*. i. *conditio*.) and signifieth especially in our common Law, that Title or In-

terest, which a man hath in Lands or Tenements, as estate simple, otherwise called Fee-simple, and estate conditionall, or upon condition, which is, (as *Littleton* saith, libro 3. caput 5.) either upon condition in Deed, or upon condition in Law. *Estate* upon condition in Deed is, where a man by Deed indented, infeoffeth another in fee, reserving to him, and to his Heires yeerely, a certaine Rent, payable at one Feast, or at divers; upon condition, that if the Rent bee behinde, &c. that it shall be lawfull to the Feoffour, and to his Heires, to enter in the Lands or Tenements, &c. *Estate* upon condition in Law, is such as hath a consideration in the Law annexed to it, though it be not specified in writing. For example, if a man grant to another by his Deed, the Office of a Parker-ship for tearme of his life, this estate is upon condition in the Law, or employed by Law, viz. if the Parker so long, shall well and truly keepe the Parke, &c. I reade also of an estate particular, which is an estate for life, or for yeeres, *Parkins Surrenders*, 581.

Estoppel, seemeth to come from the French (*estouper*. i. *oppilare*, *obturare*, *stipare*, *obstipare*) and signifieth

fieth in our common Law, an impediment or barre of an action growing from his owne fact, that hath, or otherwise might have had his action; for example: A Tenent maketh a feoffment by collusion to one: the Lord accepteth the services of the feoffee: by this hee debarreth himselfe of the wardship of his tenents heire, *Fitz. nat. br. fol. 142. K.* Divers other examples might be shewed out of him, and *Broke b. titulo. Sir Edward Coke, lib. 2. casu Goddard, fol. 4. b.* defineth an *estoppel* to be a barre or hinderance unto one to pleade the truth, and restraineth it not to the impediment given to a man by his owne act onely, but by others also. *lib. 3. The case of Fines, fol. 88. a.*

Estovers (*Estoverium*) commeth of the French (*estover. i. fovere*) and signifieth in our common Law, nourishment or maintenance. For example: *Bracton, lib. 3. tractat. 2. cap. 18. num. 2.* useth it for that sustenance, which a man taken for felonie, is to have out of his lands or goods for himselfe and his family, during his imprisonment: and the statute, *anno 6. Ed. prim. cap. 3.* useth it for an allowance in meat or cloath. It is also used for certaine allowances of wood, to bee taken out of another mans woods. So it is used *West. 2. cap.*

25. *anno 13. Edw. 1. M. West. parte 2. symbol. titulo Fines, Sect. 26.* saith, that the name of *Estovers* containeth Houle-bote, Hay-bote, and Plow-bote: as if hee have in his grant these generall words: *De rationabili estoverio in boscu, &c.* hee may thereby claime these three.

Estrepement, or *Estrepament*, (*estrepeumentum*) commeth of the French word (*estropier. i. mutilare, obtruncare*) the which word the French men have also borrowed of the Italians, or rather Spaniards, with whom (*Estropear*) signifieth to set upon the racke. It signifieth in our common Law, spoile made by the Tenent for terme of life, upon any lands or woods, to the prejudice of him in the reversion, as namely in the statute *anno 6. Ed. 1. ca. 13.* And it may seeme by the derivation, that *Estrepament* is properly the unmeasurable soaking or drawing of the heart of the land by Ploughing or Sowing it continually, without manuring, or other such usage, as is requisite in good Husbandry. And yet (*Estropier* signifying *mutilare*) it may no lesse conveniently be applyed to those, that cut downe Trees, or lop them farther than the Law will beare. This signifieth also a Writ, which lyeth in two sorts: the one is, when a man having an Action depend-

ding (as a fardom, or *dum fait infra statem*, or Writ of right, or any such other) wherein the demandant is not to recover damages, sueth to inhibit the Tenant for making waste (during the suite.) The other sort is for the Demandant, that is adjudged to recover seisin of the Land in question, and before execution, sued by the Writ *Habere facias seisinam*, for feare of waste to be made before hee can get possession, sueth out this Writ: See more of this, in *Fitzb. nat. brev. fol. 60. & 61.* See the *Registr. orig. fol. 76.* and the *Register, judicial. fol. 33.*

Estreate (*extractum vel extracta*) commeth of the French (*Traict*) which among other things signifieth a figure or resemblance: and is used in our Common Law, for the copie or true note of an originall writing. For example, of amercements or penalties set downe in the rolles of a Court, to be levied by the Bayliffe or other Officer, of every man for his offence. See *Fitzb. nat. bre. fol. 75. H. I. K. & 76. A.* And so it is used *Westm. 2. cap. 8. anno 13. Ed. 1.*

Esfrey (*extrabura*) in our common Law, signifieth any beast not wilde, found within any Lordship, and not owned by any man. For in this case, if it being cryed, according to Law, in the

market Townes adjoyning, shall not bee claimed by the owner within a yeare and a day, it is the Lords of the soile. See *Britton cap. 17.* See *Estraves* in the Forest, *anno 27. H. 8. cap. 7.* New booke of Entries. *verbo Trespas concernant esfrey.*

Evidence, (*evidentia*) is used in our Law generally for any prooffe, bee it testimony of men or instrument. *Sir Thomas Smith* useth it in both sorts, *lib. 2. cap. 17.* in these words: Evidence, in this signification, is Authentically writings of contracts after the manner of England, that is to say, written, sealed, and delivered. And *lib. 2. cap. 23.* speaking of the prisoner that standeth at the barre, to pleade for his life, and of those that charge him with Felony, hee saith thus: then hee telleth what he can say: after him likewise all those, who were at the apprehension of the prisoner, or who can give any Indices or tokens, which wee call in our language (*Evidence*) against the malefactor.

Examiner in the Chancerie, or Starre-Chamber, (*examinator*) is an Officer in either Court, that examineth the parties to any suite upon their oathes, or witnesses produced of either side: whereof there be in the Chancery two.

Exception, (*exceptio*) is a stoppe

or stay to an action, being used in the civill and common Law, both alike, and in both divided into dilatory and peremptory. Of these see *Bract. n. 15, tract. 5, per totum*: and *Bruten. cap. 91, 92.*

Exchange (*excambium, vel cambium*) hath a peculiar signification in our common law, and is used for that compensation which the warrantor must make to the warrantee, value for value, if the land warranted be recovered from the warrantee. *Bracton, lib. 2, cap. 6. & lib. 3, cap. 19.* It signifieth also generally as much as (*Permutatio*) with the Civilians, as the Kings Exchange, *anno 1 Hen. 6, cap. 3, & 4. & anno 9 Edw. 3. stat. 2, cap. 7.* which is nothing else but the place appointed by the King for the exchange of Bullion, be it gold or silver, or plate, &c. with the Kings coyne. These places have beene divers heeretofore, as appeareth by the said statutes. But now is there onely one, *viz.* the Tower of London conjoynd with the Mint. Which in time past might not be, as appeareth by *anno 1 Henrici 6. cap. 4.*

Exchequer, see *Eſchequer*.

Excheator, see *Eſcheator*.

Excommunication (*excommunicatio*) is thus defined by *Panormitan*: *Excommunicatio est nihil aliud quam censura à Canone vel Iudice Ecclesiastico prolata & insti-*

ta, privans legitima communione sacramentorum, & quandoque hominum. And it is divided in *majo-rem & minorem.* *Minor est, per quam quis à Sacramentorum participatione conscientia vel sententia arcetur.* *Major est, quæ non solum à Sacramentorum, verum etiam fidelium communione excludit, & ab omni actu legitimo separat & dividit.* *Venatorius de senten. excom.*

Excommunicato capiundo is a Writ directed to the Sheriffe for the apprehension of him who standeth obstinately excommunicated for forty dayes: for such a one not seeking absolution, hath or may have his contempt certified or signified into the Chancery, whence issueth this writ, for the laying of him up without Bayle or Mainprize, until he conforme himselfe. See *Fitz. nat. br. fol. 62. & an. 5. Eliz. ca. 23.* and the *Regist. orig. fo. 65, 67, & 70.*

Excommunicato deliberando is a writ to the under-Sheriffe, for the delivery of an excommunicate person out of prison, upon certificate from the Ordinarie, of his conformity to the jurisdiction Ecclesiasticall. See *Fitz. Nat. br. fol. 63 a.* and the *Register, fol. 65, & 67.*

Excommunicato recipiendo is a writ, wherby persons excommunicate, being for their obstinacy committed to prison, and unlawfully

lawfully delivered thence, before they have given caution to obey the authority of the Church, are commanded to be fought for and layd up againe. *Regist. origin. fol. 67, a.*

Executione facienda, is a writ commanding execution of a judgement : the divers uses whereof see in the table of the Register judiciale, *verbo Executione facienda*.

Executione facienda in Witherhamium, is a writ that lyeth for the taking of his cattell that formerly hath conveyed out of the Countrey the cattell of another ; so that the Bailiffe having authoritie from the Sheriffe to replevie the cattell so conveyed away, could not execute his charge. *Reg. orig. fol. 82 b.*

Execution (executio) in the common Law, signifieth the last performance of an act, as of a fine, or of a judgement. And the execution of a fine, is the obtaining of actuall possession of the things contained in the same, by vertue thereof : which is either by entry into the lands, or by writ : whereof see *West at large, part. 2. Symbol. titulo Fines, Sect. 136, 137, 138.* Executing of judgements and statutes, and such like, see in *Fitzherb. nat. br. in Indice 2, Verbo Execution. S. Edm. Coke, vol. 6, casu Blumfield, fol. 87, a.* maketh two sorts of Executions :

one finall, another with a (*Quousque*) tending to an end. An Execution finall is that which maketh money of the defendants goods, or extendeth his lands, and delivereth them to the plaintiffe. For this the party accepteth in satisfaction, and this is the end of the suit, and all that the Kings writ commandeth to be done. The other sort with a (*Quousque*) is tending to an end, and not finall ; as in the case of (*capias ad satisfaciendum, &c.*) this is not finall, but the body of the party is to bee taken, to the intent and purpose to satisfie the Demandant : and his imprisonment is not absolute, but until the defendant do satisfie, *Idem, ibid.*

Executour (executor) is he that is appointed by any man in his last will and Testament, to have the disposing of all his substance, according to the content of the sayd will. This Executor is either particular or universall. *Particular*, as if this or that thing onely be committed to his charge ; *Universall*, if all. And this is in the place of him whom the Civilians call *Herodem*, and the Law accounteth one person with the party whose Executor hee is, as having all advantage of action against all men, that hee had, so likewise being subject to every mans action, as farre as himselfe was. This Executor had

his beginning in the Civill Law, by the constitutions of the Emperours, who first permitted those, that thought good by their wills to bestow any thing upon good and godly uses, to appoint whom they pleased to see the same performed: and if they appointed none, then they ordained that the Bishop of the place should have authority of course to effect it, *lib. 28. c. de Episcopis & Clericis*. And from this in myne opinion, time and experience hath wrought out the use of these universall Executors, as also brought the Administration of their goods that dye without Will, unto the Bishop.

Exemplificatione is a writ granted for the exemplification of an original. See the *Register original fol. 290.*

Ex gravi querela, is a writ that lieth for him unto whom any lands or tenements in fee, within a city, towne, or Borough, being devisable, are devised by will, and the heire of the Deviseur entreth into them, and detaineth them from him. *Register original, fol. 244. Old Natura brevium, fol. 87. See Fitzb. nat. brev. fol. 198, L.*

Exigendarie of the Common bank (*Exigendarius de banco communi*) is otherwise called *Exigenter*, anno 10. Hen. 6. cap. 4. and is an officer belonging to that

Court. For the which see *Exigenter*.

Exigent, (*Exigenda*) is a writ that lieth where the Defendant in an Action personal cannot bee found, nor any thing within the County, wherby to be attached or distrained, and is directed to the Sheriffe, to proclaime and call five County dayes one after an other, charging him to appeare under the paine of Outlawry. *Termes of the Law*. This writ lieth also in an indictment of Felony, where the party indicted cannot be found. *Smith de republ. Angl. lib. 2. cap. 19.* It seemeth to be called an *Exigent*, because it exacteth the party, that is, requireth his appearance or forth-comming to answer the Law, for if hee come not at the last dayes proclamation, he is said to be *quinqvies exactus*, and then is out-lawed. *Crompt. Jurisdic. fol. 188.* And this M. *Mauwood* also setteth downe for the Law of the Forest, *par. 1.* of his Forest laws, *p. 71.* See the new book of Entries, *verbo Exigens*.

Exigenter (*Exigendarius*) anno 18 Hen. 6. cap. 9. is an officer of the Court of Common plees, of whom there be foure in number: They make all *Exigents* and proclamations in all Actions, where proesse of outlawry doth lie, and writs of *Superfideam*, as well

as well as the Protonotaries, upon such Exigents as were made in their offices.

Ex mero motu are words formerly used in any Charter of the Prince, whereby he signifieth, that he doth that which is contained in the Charter, of his owne will and motion, without petition or suggestion made by any other. And the effect of these words are to bar all exceptions that might be taken unto the instrument wherein they be contained, by alledging that the Prince in passing that charter was abused by any false suggestion. *Kitchin fol. 152.*

Exonerations scilicet, is a writ that lieth for the Kings Ward to be disburthened of all suit, &c. to the County, Hundred, Leet, or Court Baron, during the time of his wardship. *Fitz. Nat. br. fol. 138.*

Ex parte latis, is a writ that lieth for a Baylife or receiver, that having Auditors assigned to heare his account, cannot obtaine of them reasonable allowance, but is cast into prison by them. *Regist. fol. 137. Fitzb. nat. brev. fol. 129.* The manner in this case is to take this writ out of the Chancerie, directed to the Sheriffe, to take four Mainpervours to bring his body before the Barons of the Exchequer at a day certaine, and to warne the Lord to appear at the same time. New

Termes of the Law, *verbo Account.*

Expectant is used in the Common law with this word (*see*) and thus used it is opposite to Fee simple. For example, lands are given to a man and his wife in frank marriage, to have and to hold to them and their heires. In this case they have fee simple. But if it bee given to them and the heyres of their body, &c. they have taylor, and fee expectant. *Kitchin, fol. 153. Mathew de afflictis* useth the Adjective (*expectativa*) substantively in the same signification. *Discl. 292. num. 2. p. 412.*

Explees, see *Esplees*.

Expedite (*expeditare*) is a word usuall in the Forest, signifying, to cut out the balls of the great dogs feet, for the preservation of the Kings game. Every one that keepeth any great dogs not expeditated, forfeiteth to the King three shillings foure pence, *Crompt. Jurisdic. fol. 152. M. Manwood* useth the same word, *part. prim.* of his Forest Lawes, pag. 205, and pag. 212. hee setteth downe the manner of expeditating dogges heeretofore, viz. *Quod tres ortelli abscindantur sive pellota de pede anteriori*; that is, that the three clawes of the forefoot on the right side shall be cut off by the skin: whereunto he also addeth

addeth out of the same ordinance, called the Assise of the Forest, that the same manner of expeditating of dogs shall be still used and kept, and none other. *Quere* whence it groweth that Master Crompton and hee differ; the one saying that the ball of the foot is cut out: the other, that the three fore-clawes are pared off by the skin.

Expensis militum levandis, is a writ directed to the Sheriffe, for levying allowance for the Knights of the Parliament. *Regist. orig. fol. 191. b.*

Expensis militum non levandis ab hominibus de antiquo dominio, nec à nativis, is a writ whereby to prohibit the Sheriffe from levying any allowance for the Knights of the shire, upon those that hold in ancient Demesne, &c. *Reg. orig. fol. 261. b.*

Extend (extendere) commeth of the French (*estendre, i. dilatare, dissipandere, distendere*) and signifyeth in our common Law, to value the lands or tenements of one bound by Statute, &c. that hath forfeited his bond, to such an indifferent rate, as by the yearly rent the Obligor may in time bee paid his debt. The course and circumstances of this see in *Fitzherb. nat. bre. fol. 131.* *Brief d'execution sur statut Merchant.*

Extendi facias, is a writ ordi-

narily called a writ of Extent, whereby the value of lands, &c. is commanded to be made and levied in divers cases, which see in the table of the *Register originall.*

Extent (extenta) hath two significations, sometimes signifying a writ or commission to the Sheriffe for the valuing of Lands or tenements. *Register judiciall*, in the table of the booke. Sometime the Act of the Sheriffe or other Commissioner, upon this writ. *Brooke, titulo Extent. fol. 313.*

Extinguishment, in our common Law, signifieth an effect of consolidation. For example, if a man have due unto him a yearly rent out of any lands, and afterward purchase the same lands, now both the propertie and rent are consolidated, or united in one possessor, and therefore the rent is said to bee extinguished. In like manner it is, where a man hath a lease for years and afterwards buyeth the propertie, this is a consolidation of the property and the fruits, and is an extinguishment of the lease. See the Terms of Law.

Extirpatione, is a writ judiciall that lieth against him, who after a verdict found against him for land, &c. doth maliciously overthrow any house upon it, &c. and it is two-fold, one *ante judicium*,

cium, the other *post iudicium*: *Register judiciall*, fol. 13. 56. 58.

Extorsion (*Extortio*) signifieth in our common Law, an unlawfull or violent wringing of money or money worth from any man. For example, if any officer by terrifying any the Kings subjects in his office, take more than his ordinary duties, hee committeth, and is inditeable of Extortion: To this (by *M. Wests* judgement) may be referred the exaction of unlawfull Uſurie, winning by unlawfull Games, and (in one word) all taking of more than is due, by colour, or pretence of right: as excessive toll in Milners, excessive prizes of Ale, Bread, Victuals, Wares, &c. *West. parte 2. Symbol. titulo Indictments, Seſſ. 65.* *M. Manwood* ſaith, that Extortion is *Colore officii*, and not *virtute officii*, *parte 1.* of his *Forest lawes*, pag. 216. *M. Crompton* in his *Justice of peace*, fol. 8. hath theſe words in effect: Wrong done by any man, is properly a Trespaffe: but excessive wrong done by any is called Extortion: and this is moſt properly in Officers, as Sheriſſes, Maiors, Bailiſſes, Eſcheatours, and other Officers whatſoever, that by colour of their Office worke great oppreſſion, and excessive wrong unto the Kings ſubjects, in taking excessive reward, or fees, for the execution of their office. Great diverſity of

caſes touching Extortion; you may ſee in *Cromptons Justice of peace*, fo. 48. b. & 49. & 50. See the difference betweene *colore officii*, & *virtute vel ratione officii*. *Plow. caſu. Dives*, fol. 64. a. This word is uſed in the ſame ſignification in *Italy* alſo. For *Cavalcanus de brachio regio*, parte 5. num. 21. thus deſcribeth it: *Extortio dicitur fieri quando Iudex cogit aliquid ſibi dari quod non eſt debitum, vel quod eſt ultra debitum: vel ante tempus petit id, quod poſt adminiſtratam juſtitiam debetur.*

Extreats. See *Eſtreats*.

Eyre. See *Eire*.

F. A.

Faculty, (*Facultas*) as it is reſtrained from the originall and active ſignification, to a particular underſtanding in Law, is uſed for a priviledge, or eſpeciall power granted unto a man by favour, indulgence and diſpenſation, to doe that which by the common Law hee cannot doe: as to eat fleſh upon dayes prohibited, to marry without Banes firſt asked; to hold two, or more Eccleſiaſticall Livings, the Son to ſucceed the Father in a Benefice, and ſuch like. And for the granting of theſe, there is an eſpeciall Officer under the Archbiſhop of *Canterbury*, called (*Magiſter ad Facultates*) the Maſter of the Faculties.

Fag. anno 4. *Ed.* 4. *cap.* 1.

Faint and false action, seeme to be *Synonyma* in *Littleton*, fol. 144. for (*faint*) in the French tongue signifieth as much as (*fained*) in English.

Faint pleader (falsa placitatio) commeth of the French (*feint*) a Participle of the verbe (*feindre. i. simulare, fingere*) and (*ple-doir. i. placitare.*) It signifieth with us, a false covenous, or collusory maner of pleading, to the deceit of a third party, anno 34. & 35. *H.8. cap.* 24.

Faire, aliàs Feire, (feria) com-meth of the French (*faire*) and signifieth with us, as much as (*Nundinae*) with the Civilians: that is a solemne, or greater sort of Market, granted to any Towne by priviledge, for the more spee-die and commodious provision of such things, as the subject needeth, or the utterance of such things, as we abound in, above our owne uses and occasions: both our English and the French word seeme to come of (*Feriae*) because it is alwayes incident to the priviledge of a *Faire*, that a man may not bee arrested or molested in it for any other debt, than first was contracted in the same, or at least was promised to bee payed there, anno 17. *Ed.* 4. *cap.* 2. & anno 1. *R.* 3. *cap.* 6.

Faire pleading, see *Beau pleader*.

Faitours, seemeth to be a French word antiquated, or something traduced. For the modern French word is (*faisseur. i. factor.*) It is used in the Statute, anno 7. *R.* 2. *cap.* 5. And in the evill part, signifying a bad doer. Or it may not improbably bee interpreted an idle liver, taken from (*faitardise*) which signifieth a kinde of numme or sleepy disease, proceeding of too much slug-gishnesse, which the Latines call (*veternus.*) For in the said statute it seemeth to be a Synonymon to *Vagabond*.

Falke land, aliàs Folkland. See *Copy-hold* and *Free-hold*.

False imprisonment (falsum im-prisonamentum) is a trespassse committed against a man, by imprisoning him without lawfull cause: it is also uled for the writ which is brought upon this trespasse, *Fitzh. nat. brev. fol.* 86. *K.* & 88. *P. v. Broke b. t.* See the new booke of Entries, verbo *False imprisonment*.

Falso judicio, is a writ, that lyeth for false judgement given in the County, Hundred, Court Baron, or other Courts, being no Court of Record, be the plea reall or personall, *Regist. orig. fol.* 15. *Fitzh. nat. br. fol.* 17. See the new booke of Entries, verbo *False judgement*.

False prophecies. See *Prophecies*.

Falso retorno brevium, is a writ lying

lying against the Sheriffe for false returning of writs, *Reg. judic. fol. 43 b.*

Falsifie, seemeth to signifie as much, as to prove a thing to be false, *Perkins Dower*, 383, 384, 385.

Farding, or farthing of gold, seemeth to bee a Coyne used in ancient times, containing in value the fourth part of a Noble, viz. twenty pence silver, and in weight the sixth part of an ounce of gold, that is, of five shillings in silver, which is three pence and something more. This word is found, *anno 9 H 5, statut. 2. ca. 7*, thus: Item, that the king doe to bee ordained good and just weight, of the noble, halfe noble, and farthing of gold, with the rates necessary to the same, for every city, &c. By which place it plain y appeareth to have been a Coin, as well as the noble and half noble.

Farding deal, aliàs *Farundell* of land (*Quadrantata terra*) signifieth the fourth part of an Acre, *Cromptons Jurisdic. fol. 220. Quadrantata terra* is read in the *Regist. orig. fo. 1, b.* where you have also *Denariata et obolata, solidata et librata terra*; which by probabilitie must rise in proportion of quantity from the farding deale, as an halfe penny, penny, shilling, or pound rise in value and estimation; then must *obolata* be halfe an acre,

denariata an acre, *solidata* twelve acres, and *librata* twelve score acres. And yet I finde *viginti libratas terra vel redditus*. *Register orig. fol. 94 a et fo. 248 b.* Whereby it seemeth, that *Librata terra* is so much as yeeldeth twenty shillings *per annum*; and *centium solidatas terrarum tenementorum et reddituum*, *fol. 249 a.* And in *Fitzb. Nat. Brev. fo. 87 f.* I finde these words, *viginti libratas terra vel redditus*, which argueth it to be so much land as twenty shillings *per annum*. See *Furlong*.

Fate or *Fat*, is a great wooden vessell which among Brewers in London is ordinarily used at this day, to measure Mault by, containing a Quarter, which they have for expedition in measuring. This word is read, *Anno 1 H. 5, cap. 10. et anno 11 H. 6, ca. 8.*

Fealtie (*Fidelitas*) commeth of the French *seaulte*, i. *fides*; and signifieth in our Common Law, an oath taken at the admittance of every Tenent, to bee true to the Lord of whom hee holdeth his land. And hee that holdeth land by this onely oath of fealty, holdeth in the freest manner that any man in England under the king may hold. Because all with us that have fee, hold *per fidem & fiduciam*, that is, by fealty at the least. *Smith de republ. Anglor. li. 3,*

cap. 8. for *fidelitas est de substantia feudi*, as *Duarenus* saith de feud. cap. 2. num. 4. and *Mathæus de afflictis* decis. 320: num. 4. pag. 465. saith that *fidelitas est substantia feudi, non servitium*. The particulars of this oath, as it is used among the Feudists, you may reade well expressed by *Zasius* in his *Traçtate de feudis. parte 7. nu. 15, & 16.* which is worth the comparing with the usuall oath taken here in our part of *Britanie*. This fealty is also used in other nations, as the *Limbards* and *Burgundians*. *Cassanens de consuet. Burgund. pag. 419, & 420.* And indeed the very first creation of this tenure, as it grew from the love of the Lord toward his followers, so did it bind the tenant to fidelity, as appeareth by the whole course of the Feods; And the breach thereof is losse of the fee *Duarenus* in *Commentariis feudorum, ca. 14. nu. 11. & Wesenbecius* in *tract. de feudis ca. 15. nu. 4. & seqq.* *Antonius Contius* in *methodo feudorum cap. Quibus modis feudum amittitur.* *Hotoman* in his *Commentaries (De verbis feudalibus)* sheweth a double fealty: one generall, to be performed in every subject to his Prince: the other speciall, required onely of such, as in respect of their fee, are tyed by this oath toward their Land-lords: both wee may reade of in the *Grand Custumary*

of *Normandy*, being of course performed to the Duke, by all resident within the Dutchie. The effect of the words turned into Latine by the Interpreter, is this: *Fidelitatem autem tenentur omnes residentes in Provincia Duci facere & servare: Unde tenentur se ei innocuos in omnibus & fideles exhibere, nec aliquid ipsum incommode procurare: nec ejus inimicis probere, contra ipsum consilium vel juvamen: & qui ex hoc inventi fuerint ex causa manifesti, notabiles & traditores Principis reputantur. Et omnes eorum possessiones perpetue Principi remanebunt, si super hoc convicti fuerint vel dammati: Omnes enim in Normania tenentur Principi fidelitatem observare. Unde nullus homagium vel fidelitatem alicujus potest recipere, nisi salva Principis fidelitate. Quod etiam est in eorum receptione specialiter exprimendum. Inter Dominos autem alios & homines fides taliter debet observari, quod niter in personam alterius personalem violentiam, seu percussionis injectionem cum violentia, debet irrogari. Si quis enim eorum ex hoc fuerit accusatus in curia & convictus, feudum omne debet amittere, &c.* This fealty speciall is with us performed either by Free-men or by Villaines. The forme of both see anno 14. *Edw. 1. stat. 2.* in these words: When a Free-man shall do fealty to his Lord,

Lord, hee shall hold his right hand upon a booke, and shall say thus: Heare you my Lord *R.* that *I. P.* shall be to you both faithfull and true, and shall owe my fealty to you for the Land that I hold of you at the termes assigned: So helpe me God and all his Saints. When a villaine shall do fealty unto his Lord, hee shall hold his right hand over the booke, and shall say thus: Heare you my Lord *A.* that *I. B.* from this day forth unto you shall be true and faithfull, and shall owe you fealty for the Land that I hold of you in Villenage, and shall bee justified by you in body and goods: So helpe mee God and all his Saints. See the *Regist. orig. fol. 302. a.*

Fee (*Feodum*, aliàs *Feudum*) commeth of the French (*fief. i. pradium beneficium, vel res clientelaris*) and is used in our common Law, for all those lands which wee hold by perpetuall right: as *Hotoman* well noreth, *verb. Feodum, de verbis feudilibus.* Our ancient Lawyers, either not observing whence the word grew, or at least, not sufficiently expressing their knowledge, what it signified among them, from whom they tooke it. *Feudum*, whence the word (*Fief*) or fee commeth, signifieth in the German language (*beneficium cuius nomine opus quedam gratie testi-*

ficande causa debentur, Hot. diffinit. cap. 1. And by this name go all lands and tenements, that are held by any acknowledgement of any superiority to a higher Lord. They that write of this subject, do divide all Lands and Tenements, wherein a man hath a perpetuall estate to him and his heires, &c. into *Allodium* & *Feudum*. *Allodium* is defined to be every mans owne land, &c. which hee possesseth meerely in his owne right, without acknowledgement of any service, or payment of any rent unto any other, and this is a property in the highest degree, and of some it is called (*Allodium ab à privativa particula, & landum vel landatio ut sit pradium cuius nullus author est nisi deus. Est enim landare vel Novio teste, nominare. Quod & Budens docuit ad Modestinum. l. Herennius 63. π. de here. instit. Pratum, verbo Allodium. Hotoman in verb. feud.* *Feudum* is that, which wee hold by the benefit of another, and in the name whereof wee owe service, or pay rent, or both, to a superior Lord. And all our land here in England (the Crowne land which is in the Kings owne hands in the right of his Crowne excepted) is in the nature of *Feudum* or fee, for though many a man hath land by descent from the Ancestours; and many another hath

dearely bought land for his money, yet is the land of such nature, that it cannot come to any, either by descent or purchase, but with the burthen that was laid upon him, who had novell fee, or first of all received it as a benefit from his Lord, to him and to all such, to whom it might descend, or any way be conveyed from him. So that if we will reckon with our Host (as the proverbe is) there is no man here, that hath *directam dominium*. i. the very propertie or demaine in any Land, but the Prince in the right of his Crowne. *Cum d. Bri. tan. pag. 93.* for though hee that hath fee, hath *jus perpetuum & utile dominium*: yet hee oweth a dutie for it: and therefore is it not simply his owne. Which thing I take those words, that wee use for the expressing of our deepest rights in any lands or tenements, to import: for hee that can say most for his estate, saith thus: I am seised of this or that land or tenement in my demaine as of fee. *Seisitus inde in dominico meo ut de feudo*, and that is as much, as if hee said, it is my demaine or proper land after a sort: because it is to mee and mine heires for ever: yet not simply mine, because I hold it in the nature of a benefit from another, yet the statute *anno 37. H. 8. cap. 16.* useth these words of lands invested in the Crowne:

but it proceedeth from the ignorance of the nature of this word (*Fee*) for fee cannot be without fealty sworne to a superiour, as you may read partly in the word (*Fealtie*) but more at large in those that write *de feudis*: and namely *Hotom. in*, both in his Commentaries and Disputations. And no man may grant, that our King or Crowne oweth fealty to any superior but God onely. Yet it may be said, that land, &c. with us is termed fee in two respects: one, as it belongeth to us and our heires for ever: and so may the Crowne lands be called Fee: the other as it holdeth of another, which is, and must be farre from our Crowne *Britton cap. 32.* defineth fee to this effect. Fee is a right consisting in the person of the true heire, or of some other, that by just title hath purchased it. *Fleta* saith that *Feudum est quod quis tenet ex quacunq; causa sibi & heredibus suis, sive sit tenementum sive redditus, qui non proveniunt ex camera, & alio modo dicitur feudum, sicut ejus qui feoffat, & quod quis tenet ab alio sicut dicitur: talis tenet de tali tot feuda per servitium militare. li. 5. ca. 5. §. Feudum autem.* And all that write *de feudis*, do hold that (*Feudatarius*) hath not an entire property in his fee: Nay it is held by right learned men, that these fees were at the first invention or creation of

of them, either all or some of them temporary, and not perpetuall and hereditary, *Jacobutim, de Franchis in precludio feud. ca. 2, num. 133.* The divisions of fee in divers respects are many, and those though little knowne to us in England, yet better worthy to bee knowne, than wee commonly thinke. But for our present purpose, it is sufficient to divide Fee into two sorts, Fee absolute, otherwise called Fee simple, and fee conditionall, otherwise termed Fee taile. Fee simple (*Feudum simplex*) is that whereof wee are seised in these generall words, To us and our heires for ever. Fee taile, *Feudum taliatum*, is that whereof wee are seised to us and our heires with limitation, that is, the heires of our body, &c. And Fee taile is either generall or speciall. Generall is, where land is given to a man and the heires of his body. The reason whereof is given by *Littleton, ca. 2, li. 1*, because a man seised of land by such a gift, If hee marry one or more wives, and have no issue by them, and at length marry another by whom hee hath issue, this issue shall inherit the Land. Fee taile speciall is that, where a man and his wife bee seised of lands to them and the heires of their two bodies. The reason is like-

wife given by *Littleton* in the same place, because in this case, the wife dying without issue, and hee marrying another, by whom hee hath issue, this issue cannot inherit the land, being specially given to such heires, &c. This Fee taile hath the originall from the statute of Westminster 2, *cap. pri.* which was made anno 13 *Edw. 1.* Yet see *Bracton, lib. 2, ca. 5, num. 3.* in his verbis: *Item quadam absoluta & larga, et quadam stricta et coarctata, sicut certis heredibus.* To whom adde *Plowden, casu Willion, fo. 235, a, b, & seq.* for before that statute, all land given to a man and his heires, either generall or speciall, was accounted in the nature of fee, and therefore held to bee so firmly in him to whom it was given, that any limitation notwithstanding, hee might alienate and sell it at his pleasure: much like that which the Civilians call *Nudum preceptum*, binding rather by counsell and advice, than compulsion or restraint. And this thing seeming unreasonable to the wisdom of our Realme, because so a man meaning well to this or that posteritie of himselfe or his friends, might be forthwith deceived of his intention, the said statute was made for redresse of this inconvenience, whereby it is ordained, that if a man give lands in fee, limiting the heires to whome it shall descend, with a reverfi-

on to himsele or his heires for default, &c. that the forme and true meaning of his gift, shall be observed. Wherefore in what conscience our Lawyers have invented meanes, so easily to cut off this forme of gift, it is to bee considered. Hee that hath Fee then, holdeth of another by some duty or other, which is called service, and of this service and the diversity thereof. See *Chivalrie* and *Service*. Hee that will learne from what Fountaine these Feuds or fees did first spring let him read *Antonius Contius* his first chapter *de methodo feudorum*, where he shall receive great light for his guide into so obscure a dungeon. See *Leige*. This word, (*Fee*) is sometimes used with us, for the compasse or circuit of a Lordship or Manner. *Bracton lib. 2. cap. 5.* in these words: *In eadem villa & de eodem feodo*. Thirdly it is used for a perpetuall right incorporeall: as to have the keeping of Prisons in Fee. *Old nat. br. fol. 41.* Foster in fee, *cod. fo. 6.* Rent graunted in fee, *cod. fo. 8.* Sheriffe in fee. *anno 28. Ed. 1. stat. 3. cap. 8.* Lastly, Fee signifieth a reward or ordinary duty, that a man hath given him for the execution of his office, or the performance of his industrie in his art or science: as the Lawyer or the physitian is said to have his Fee, when he hath the considera-

tion of his paines taken, the one with his Client, the other with his Patient.

Fee expectant, is by the Feudists termed *feudum expectativum*, or *expectativa*, substantively used, *Mathew de Afflictis decis. 292. au. 2. pag. 417.* See *expectant*.

Fee ferme (*feudi firma*) is a compound of *Fee*, whereof *fee* (*Fee*) and (*ferme i. colonia, villa pradium, rusticum* of (*Ferme*) commeth *Fermier du prince i. manceps, redemptor publicorum vectigalium, Publicanus*) *Fee ferme* signifieth in our common Law, land held of another in fee, that is in perpetuie to himsele and his heires, for so much yeerely rent, as it is reasonably worth, more or lesse, so it be the fourth part of the worth, *old tenures*. See exposition of the Statute of Gloucester, *anno 6. Edw. 1.* without homage, fealtie, or other services, other than be especially comprised in the feofment, but by *Fitzb.* it seemeth that the third part of the value may bee appointed for the rent, or the finding of a Chaplaine to sing divine Service, &c. *nat. br. fol. 210. C.* And the nature of it is this, that if the rent be behind and unpaid for the space of two yeares, then the feoffour or his heires have action to recover the lands as their demesnes: *Britton. cap. 66. num. 4.* but observe out of *West. symbol. par. 1. lib. 2. sect. 463.* that

that the feoffment may containe services and suit of Court, as well as rent. And the author of the new Termes of law saith, That Fee-Ferme oweth Fealty, though not expressed in the feoffment, for that fealty belongeth to all kinde of tenures. This is neere the nature of that which among the Civilians is called *ager vectigalis*, qui in perpetuum licetur, i. hac lege ut quam diu pro eo vectigal pendatur, tam diu neq; ipsis qui conduxerunt, neque iis qui in locum eorum successerunt, auferri eum liceat. l. 1. si ager vectigalis, &c.

Feede (*feida* alias *faida*) signifieth in the Germane tongue, *Guer-ram*, i. *capitales inimicitias vel bellū*. *Hotoman disputat. de feudis, ca. 2. b.* *Fœmina dicitur faidam non facere*, Gloss. in *hult. de lege Conradi lib. 2. de feudis*, by reason that women by the law are not subject to warfare, to battell, or proclamation made for that cause. *Skene, de verbo signif. verbo Affiditio*. Master Lambert in his exposition of Saxon words writeth it *Feeth*, and sayth likewise that it signifieth *Capitales inimicitias*. And also that *Feud*, used now in Scotland and the North parts of England, is the same, that is, a combination of kindred, to revenge the death of any of their bloud, against the killer and all his race.

Felony (*felonia*). seemeth to come of the French *Felon-*

nie, i. *impetuositas, atrocitas, immisericordia*. *Felonia*, sayth *Hotoman*, *de verbis feudalibus*, non *presciſe contumaciam vassalli in dominum*, *hujusve in vassallum perfidiam significat*, *verum quodvis capitale facinus*. And againe, *Felonia* *Gothis & Longobardis dicitur quod Germanis* *bodie Schelmarey*, *Latinis Scelus*. Sir Edward Coke saith thus, *Ideo dicta est felonia qua fieri debet felleo animo*, lib. 4. fo. 124. b. *Hostenſis in sua summa titulo, De Feudis*. And others speake of this to this effect: *Felonia*, alias *felonia*, est culpa vel injuria, propter quam vassallus amittit feudum. Sed hac respicit Dominum feudi. Est & alia fallonia que non respicit Dominum: sc. quando vassallus interficit fratrem vel filium suum, vel filium fratris, vel aliud crimen commisit quod parricidii appellatione continetur, & plures alie fallonia tam respicientes Dominum, quam alios propter quas feudum amittitur ibi notantur. Wee account any offence felony, that is in degree next unto petit treason, and compriseth divers particulars under it, as murther, theft, killing of a mans selfe, Sodometry, Rape, wilfull burning of houses, and divers such like, which are to be gathered especially out of statutes, wherby many offences are daily made felony, that before were not. Felony is discerned frō lighter

lighter offences by this, that the punishment thereof is death. How be it this is not perpetuall. For *petit larcenie*, (which is the stealing of any thing under the value of twelve pence) is felony, as appeareth by *Broke titulo Coron. num. 2.* his reason is, because the Inditement against such a one must runne with these words, (*felonice cepit*) and yet is this not punished by death though it be losse of goods. Any other exception I know not, but that a man may call that *felony*, which is under *petit treason*, and punished by death. And of this there be two sorts: one lighter, that for the first time may be releevd by *Cleargie*, another that may not. And these you must also learne to know by the statutes: for *Cleargy* is allowed, where it is not expressly taken away. Of these matters reade *Stawnsfords* first booke of his *pl. cor.* from the end of the second Chapter, to the 39. and the Statutes whereby many offences bee made felony, since he writ that learned Booke. See also *Lamberds Justice of peace, lib. 2. cap. 7.* in a Table drawne for the purpose. As also *lib. 4. ca. 4. pag. 404.* and *Cromptons* in his *Justice of Peace. fol. 32. &c.* Felony is also punished by losse of Lands not entailed, and goods or chattels, as well reall as personall: and

yet the Statutes make difference in some cases touching Lands, as appeareth by the Statute, *anno 37. H. 8. ca. 6.* Felony ordinarily worketh corruption of blood, though not, where a Statute ordaineth an offence to bee felonie, and yet withall saith, that it shall not worke corruption of blood. As *anno 39. Elizab. ca. 17.* How many wayes Felony is committed, See *Cromptons Justice of peace, pag. 32. &c.*

Fyre, See *Fayre*.

Felo de se, is he that committeth felony by murdering himselfe. See *Cromptons Justice of Peace, fol. 28.* and *Lamberds Eirenarcha. lib. 2. ca. 7. pag. 243.*

Fencemoneth, is a moneth, wherein it is unlawfull to hunt in the Forest, because in that moneth the Female Deere doe faune: and this moneth beginneth 15 dayes before Midsummer, and endeth 15 dayes after. So that to this moneth there be 31 dayes. See *Mauwood parte prim. of his Forest Lawes, pag. 80.* but more at large *parte secunda cap. 13. per totum.* It is also called the defence moneth, that is, the forbidden moneth, and the word defence is used in like sort. *West. 2. ca. 47. anno 13. Ed. 1.* in these words: All waters where Salmons bee taken, shall be in defence for taking of Salmons from the Nativiry, &c.

Pennycricke, or rather *Fenegreke*, (*Fenum Græcum*) is a medicinall plant or herbe, so called, because it groweth like Hey, and commeth out of Greece. Of this you may reade more in *Gerards herball*, l. 2. c. 483. The seed thereof is reckoned among drugs, that are to be garbled, anno 1. *Jacob. cap. 19.*

Feofment (*feoffamentum*) by the opinion of *Sir Thomas Smith de Repub. Anglor. lib. 3. cap. 8.* and *M. West parte prim. symbol. lib. 2. Sect. 280.* is descended from the Gottish word (*Fendum*) which you have interpreted in (*Fee*) and signifieth (*donationem feudii.*) But (as *M. West* also addeth) it signifieth in our common Law, any gift, or grant of any Honors, Castles, Manors, Mesuages, Lands, or other corporall and immoveable things of like nature, unto another in fee simple, that is to him and his heires for ever, by the delivery of seisin and possession of the thing given, whether the gift bee made by word or writing. And when it is in writing, it is called a deed of feofment, and in every feofment the giver is called the Feoffour (*feoffator*), and he that receiveth by vertue thereof, the Feoffee (*feoffatus*), and *Littleton* saith, that the proper difference betweene a Feoffour and a Donour is, that the Feoffour giveth in fee-simple,

the Donour in fee-taile, *lib. 1. cap. 16.* *Feodarie*, alijs, *Feudarie*, alijs, *feudatarie*, (*feudatarius*) is an officer authorized and made by the Master of the Court of Wards and Liveries, by Letters patents under the Seale of that office. His function is to be present with the Escheatour at the finding of any office, and to give evidence for the King as well concerning the value, as the tenure, and also to survey the land of the Ward, after the office found, and to rate it. He is also to assigne the Kings widowes their Dowers, and to receive all the rents of the Wards lands, within his circuit, and to answer them to the Receiver of the Court of Wards and Liveries. This officer is mentioned anno 32. *H. 8. cap. 46.*

Ferdsfare, significat *quietantiam unde in exercitum.* *Fless, libr. pri. cap. 47.*

Ferdwit, significat *quietantiam murti in exercitu.* *Fleta, libr. pri. cap. 47.*

Ferm (*firma*) commeth of the French (*Ferme. i. colonia, villa, pradium*), and signifieth with us, house or land, or both, taken by Indenture of lease, or lease parol. It may likewise not unaptly be conjectured, that both the French and English word came from the Latine (*firma*) for (*locare*

ad firmum) I finde sometime to signifie with others, as much as (to see or let to farme) with us. The reason whereof may be in respect of the sure hold they have above tenants at will, *v. vocabul. utriusque juris, verba afflicti*. The Author of the new Termes of Law, deriveth this word from the Saxon (*feormian*) which signifieth, to feed or yeeld victuall. For in ancient time the reservations were as well in victualls as money, which I leave to the judgement of the Reader. How many wayes ferme is taken. See *Plowden, casu Wrottesley, fol. 195. a. b.*

Feodaria. See *Feodaria.*

Fieri facias, is a writ judiciall, that lyeth at all times within the yeare and day, for him that hath recovered in an action of debt, or dammages, to the Sheriffe, to command him to levie the debt, or the dammages of his goods, against whom the recovery was had. This writ hath beginning from *Westm. 2. cap. 18. anno 13. Ed. 1.* See *Old nat. br. fol. 152.* See great diversitie thereof in the Table of the Register Judiciall. verbo. *Fieri facias.*

Fifteenth (*Decimaquinta*) is a tribute, or imposition of money laid upon any Citie, Borough, and other Towne through the Realme, not by the polle, or upon

this or that man, but in generall, upon the whole Citie or Town; so called, because it amounteth to one fifteenth part of that, which the City or Towne hath bene valued at of old. This is now a dayes imposed by Parliament: and every Towne through the Realme, great or lesse, knoweth what a fifteenth for themselves doth amount unto, because it is perpetuall: whereas the Subsidie, which is raised of every particular mans lands or goods, must needs bee uncertaine, because the estate of every severall man is so ticklish and uncertaine. And in that regard am I driven to thinke that this fifteenth is a rate anciently laid upon every Towne, according to the land or circuit belonging unto it; whereof *M. Camden* hath many mentions in his *Britannia*. In stead of the rest, take a few, *page 168.* of *Wels* in Somersetshire he writeth thus: *Quo tempore, ut testatur censualis Anglie liber, Episcopus ipsum oppidum tenuit, quod pro quinquaginta bidis geldavit:* And *pag. 171.* of *Bathe.* *Geldabat pro viginti bidis, quando Scira geldabat.* Thirdly, *pag. 181.* of old *Sarisbury* thus: *Pro quinquaginta bidis geldabat.* And these rates were taken out of Doomes day in the *Eschequer*; so that this seemed in old time, to be a yearely tribute in certaintie, whereas now, though the rate be certaine,

certaine, yet it is not levied but by parliament. See *Task*. See *Quinsio me*.

Filazer (*filaxarius*) commeth of the French *Filaci*, i. *filum filacium*. It is an officer in the Common plees, whereof there bee fourteene in number. They make out all originall processe, as well reall, as personal and mixt: and in actions meerely personall, where the defendants bee returned or summoned, there goeth out the distresse infinite untill appearance. If hee be returned *Nihil*, then processe of *Capias infinite*, if the Plaintiffe will, or after the third *Capias*, the plaintiffe may goe to the Exigenter of the shire, where his Originall is grounded, and have an Exigent or proclamation made. And also the Filazer maketh forth all writs of view in causes, where the view is prayed: he is also allowed to enter the imparlance, or the generall issue in common actions, where appearance is made with him, and also judgement by confession in any of them before issue bee joyned: and to make out writs of execution thereupon. But although they entered the issue, yet the Protonotary must enter the judgement, if it be after verdict. They also make writs of *Supersedeas*, in case where the Defendant appeareth in their offices, after the Ca-

pias awarded.

Filétale: see *Sothale*.

File (*Filacium*) is a thread or wyer, whereon writs or other Exhibits in courts are fastned, for the more safe keeping of them.

Finders, anno 18. Edm. 3. stat. 1. cap. unico, anno 14. Ric. 2. cap. 10. seeme to be all one with those, which in these dayes wee call Searchers.

Fine (*finis*): commeth of the French (*fin* i. *finis*) and hath divers applications in our common Law: sometimes being used for a formall or ceremonious conveyance of Lands or Tenements, or (as *west* saith, *titulo Fines*, sect. 25.) of any thing inheritable, being *in esse tempore finis*, to the end to cut off all controversies. (*West. parte 2. symbol. sect. 1.* defineth a Fine in this signification: covenants made before Justices, and entred of Record. And out of *Glanvile* thus, lib. 8. cap. 1. *Finis est amicabile composicio & finalis concordia, ex consensu & licentia Domini Regis, vel ejus Justiciariorum*. And lib. 9. cap. 3. *Talis concordia finalis dicitur, eo quod finem imponit negotio, adeo ut neutra pars litigantium ab eo de casero poterit recedere*. And out of *Bracton*, lib. 5. tract. 5. cap. 28. num. 7. thus: *Finis ideo dicitur finalis concordia, quia imponit finem litibus, & est exceptio peremptoria*. The Author of

the new Termes of Law, defineth it to be a finall agreement had betweene persons concerning any Land or Tenement or other thing, whereof any suite or Writ is betweene them hanging in any Court. See the new Booke of Entries, *verba Fines*. This fine is of so high a nature, that *Bracton lib. 3. cap. 7. num. 3.* hath these words of it: *Item immediata pertinet ad Regem querela finis facta in curia Domini Regis, & non observata. Et est ratio, quia nemo potest finem interpretari nisi ipse Rex, in cuius curia fines fiunt.* See also, *anno 27. Ed. prim. stat. prim. cap. 1.* The Civilians would call this solemne contract, *transactio nem iudicialem de re immobili*, because it hath all the properties of a transaction, if it bee considered in his originall use. *2. Resemb. parat. titule de transact.* For it appeareth by the Writers of the Common Lawe above named, that it is nothing but a composition or concord acknowledged and recorded before a competent Judge, touching some hereditament or thing immovable, that earst was in controversie betweene those, that be parties to the same concord: and that for the better credit of the transaction, being by imputation made in the presence of the King, because it is levied in his Court: and therefore doth it

bind women covert being parties, and others whom ordinarily the Lawe disableth to transact, onely for this reason, that all presumption of deceit or evill meaning is excluded, where the King is privie to the act. But discourse of wit and reason, hath in time wrought other uses of this concord, which in the beginning was but one: as namely, to secure the title that any man hath in his possession against all men: to cut off Intailes, and with more certaintie to passe the Interest or the Title of any Land or Tenement, though not controverted, to whom wee thinke good, either for yeares or in Fee. In so much that the passing of a Fine, in most cases, now is it but *mera fictio iuris*, aluding to the use for the which it was invented, and supposing a doubt or controversie, where in truth none is: and so not onely to worke a present prescription against the parties to the concord, or fine, and their heires, but within five yeares against all others, not expressly excepted (if it belevied upon good consideration and without covine) as women covert, persons under 21. yeares, or prisoners, or such as be out of the Realme at the time when it was acknowledged. Touching this matter, see the statutes, *anno 1. Ric. 3. cap. 7.*

anno 4. H. 7. cap. 24. anno 32. H. 8. cap. 36. & anno 31. Eliz. cap. 2. This fine hath in it five essentiall parts: the originall writ taken out against the Cognizour: the Kings License giving the parties libertie to accord, for the which he hath a fine called the Kings Silver, being accounted a part of the Crownes revenue. Thirdly, the concord it selfe, which thus beginneth: *Et est concordia talis, &c.* Fourthly, the note of the fine, which is an abstract of the originall concord, and beginneth in this manner: *Sc. Inter R. querentem, & S. & E. uxorem ejus, de forciante, &c.* Fifthly, the foot of the fine, which beginneth thus: *Hec est finalis concordia facta in Curia domini Regis, apud Westm. a die Pasche in quindecim dies, anno &c.* So as the foot of the fine includeth all, containing the day, yeare, and place, and before what Justice the concord was made. *Coke vol. 6. casu Teye, fo. 38, & 39.* This fine is either single or double: A single fine, is that by which nothing is granted or rendered backe againe by the Cognizeese to the Cognizours, or any of them. A double fine containeth a grant and render backe againe, either of some rent, common, or other thing, out of the land, or of the land it selfe, to all, or some of the Cog-

nizours, for some estate, limiting thereby many times Remainders to strangers, which be not named in the writ of covenant. *West. ubi supra, Sect. 21.* Againe, a fine is of the effect, divided into a fine executed, and a fine executory. A fine executed is such a fine, as of his owne force giveth a present possession (at the least in law) unto the Cognizee, so that hee needeth no writ of (*Habere facias seisinam*) for the execution of the same, but may enter; of which sort is a fine (*sur cognizance de droit come ceo que il ad de son done*) that is upon acknowledgement, that the thing mentioned in the concord be *jur ipsius cognizant, ut illa que idem habet de dono Cognitoris.* *West. Sect. 51. K.* and the reason of this seemeth to be, because this fine, passeth by way of release of that thing, which the cognizee hath already (at the least by supposition) by virtue of a former gift of the Cognizour, *Cokes Reports, lib. 3. the case of fines, fol. 89. b.* which is, in very deed, the surest fine of all. *Fines executorie* be such, as of their owne force doe not execute the possession in the Cognizeese, as *fines sur cognizance de droit tantum, fines sur done*, grant, release, confirmation, or render. For if such fines be not levied, or such render made unto them, that be in possession at the

time of the fines levied, the cognizees must needs sue writts of (*Habere facias seisinam*) according to their severall cases, for the obtaining of their possessions, except at the levying of such executory fines, the parties, unto whom the estate is by them limited, bee in possession of the lands passed thereby: for in this case such fines doe inure by way of extinguishment of right, not altering the estate of possession of the Cognizee, but perchance bettering it, *West. ubi supra, sect. 20.*

Touching the forme of these Fines, it is to be considered upon what writ or action the concord is to be made, and that is, most commonly, upon a writ of Covenant; and then first there must passe a payre of Indentures betweene the Cognizour and Cognizee, whereby the Cognizour covenanteth with the Cognizee, to passe a Fine unto him, of such or such things by a day set down. And these Indentures, as they are first in this proceeding, so are they sayd to leade the Fine; upon this Covenant the writ of Covenant is brought by the Cognizee against the Cognizour, who thereupon yeeldeth to passe the Fine before the Judge, and so the acknowledgement being recorded, the Cognizour and his heires are presently concluded,

and all strangers not excepted, after five yeares once passed. If the writ whereupon the Fine is grounded, be not a writ of covenant, but of *Warrantia chartæ*, or a writ of right, or a writ of *mesn*, or a writ of Custome and Services (for of all these Fines may also be tounded. *West. ubi supra, sect. 23.*) then this forme is observed: the writ is served upon the party that is to acknowledge the Fine, and then he appearing doth accordingly: See *Dier, fol. 179. nu. 46.*

This word (*Fine*) sometime signifieth a summe of money, payd for an In-come to lands or tenements let by Lease: sometime an amends, pecuniarie punishment, or recompense upon an offence committed against the King and his Lawes, or a Lord of a mannor. In which case, a man is said, *facere finem de transgressionem cum Rege, &c. Regist. Jud. fol. 25. a.* and of the diversitie of these Fines, with other matter worth the learning, see *Cromptons Justice of peace, fol. 141. b. 143. 144.* and *Lamberds Eirenarchia, libr. 4. cap. 16. pa. 555.* But in all these diversities of uses, it hath but one signification; and that is a finall conclusion or end of differences betweene parties. And in this last sense, wherein it is used for the ending and remission of an offence, *Bracton* hath

hath it *li. 2. ca. 15. nu. 8.* speaking of a common fine that the Countie payeth to the King, for false judgements, or other trespasses, which is to be assessed by the Justices in Eyre before their departure, by the oath of Knights and other good men, upon such as ought to pay it: with whom agreeth the Statute, *anno 3. Ed. pri. ca. 18.* There is also a common fine in Leets. See *Kitchin, fo. 13. a. v. Common fine.* See *Fleta li. 1. ca. 48.*

Fines pro licentia concordandi, *anno 21. H. 8. ca. 1.* See *Five.*

Fine force, seemeth to come of the French adjective (*fin*) and the substantive (*force. i. vis.*) The adjective (*fin*) signifieth sometime as much as craftie, wily, or subtil; sometime as much, as artificiall, curious, singular, exact, or perfect; as (*Rien contrefaist fin. i. nihil simulatum aut ad imitationem alterius expressum, potest esse exactum, vel ita absolutum, quin reprehensionem vel offensionem incurrat*, as is set downe in that worke, truly regal, intituled *La Loi des Rois. pa. 115.* so that this (*fine force*) with us, seemeth to signifie an absolute necessity or constraint, not avoidable, and in this sense it is used, *Old nat. br. fol. 78.* and in the statute *anno 35. H. 8. cap. 12.* in *Perkins Downer, fol. 321.* and *Plowden, fol. 94.* *Coke, vol. 6. fol. 111. a.*

Fine adnullando levato de tenemento quod fuit de antiquo dominico, is a writ to Justices, for the disanulling of a fine levied of lands holding in ancient Demesne, to the prejudice of the Lord, *Regist. orig. fol. 15. b.*

Fine capiendo pro terris, &c. is a writ lying for one, that upon conviction by a Jury, having his lands and goods taken into the Kings hand, and his body committed to prison, obtaineth favour for a summe of money, &c. to be remitted his imprisonment, and his lands and goods to be redelivered unto him, *Regist. orig. fol. 142. a.*

Fine levando de tenementis tenitis de Rege in capite, &c. is a writ directed to the Justices of the common plees, wherby to license them to admit of a fine for the sale land, holding in *capite*, *Reg. orig. fol. 167. a.*

Fine non capiendo pro pulchre placitando, is a writ to inhibit officers of Courts, to take fines for faire pleading, *Reg. orig. fol. 179.* See *Beaupleder.*

Fine pro redisseisina capienda, &c. is a writ, that lieth for the release of one laid in prison for a redisseisin; upon a reasonable fine, *Reg. orig. fol. 222.*

Finarie. See *Blomarie.*

Finours of gold and silver, be those that purifie, and part those Metals from other courser, by fire

fire and water, *anno* 4. *H. 7. ca. 2.* They be also called *Parters* in the same place, sometime *De-parters*.

Firebote, for the composition looke *Haybote*. It signifieth allowance or *Estovers* of woods, to maintaine competent fire for the use of the tenant.

First fruits (*primitia*) are the profits of every Spirituall living for one yeare, given in ancient time to the Pope throughout all Christendome: but by the statute *anno* 26. *H. 8. cap. 3.* translated to the Prince, for the ordering whereof, there was a Court erected, *an. 32. H. 8. cap. 45.* but this Court was dissolved *anno pri. Mar. sess. 2. cap. 10.* and sithence that time, though those profits be reduced againe to the Crowne, by the statute *anno* 1. *Eliz. ca. 4.* yet was the Court never restored, but all matters therein wont to be handled, were transferred to the Exchequer. See *Annals*.

Fishgarbe, *anno* 23. *H. 8. ca. 18.*

Fitche. See *Furre*.

Fitzherberd, was a famous Lawyer in the dayes of King Henry the eight, and was chiefe Justice of the Common pleas, hee wrote two worthy Bookes, one an Abridgement of the common Lawes, another intituled *De Natura brevium*.

Fledwit, commeth of the Saxon word (*Fled*) that is, a fugi-

tive, and wit, which some make but a termination, signifying nothing of it selfe: howbeit others say, it signifieth a reprehension, censure or correction: It signifieth in our auncient Law, a discharge or freedome from amercedments, when one having bene an Out-lawed fugitive, cometh to the peace of our Lord the King, of his owne accord. *Rastal. Exposition of words*: or being licenced: *New termes of Law*. See *Bloodwit*, and *Childwit*: See *Fletwit*.

Fleete (*Flota*) a famous prison in London, so called (as it seemeth) of the River, upon the side whereof it standeth, *Camden Britannia. pag. 317.* Unto this none are usually committed, but for contempt to the King and his Lawes, or upon absolute commandement of the King, or some of his Courts, or lastly upon debt, when men are unable or unwilling to satisfie their Creditours.

Flemeswit, or rather (*Flebenswit*) commeth of the Saxon word (*Flean*) which is a contract of (*Flegen*) that is, to fly away. It signifieth with our Lawyers, a libertie or Charter, whereby to challenge the Cattell or amercedments of your man a Fugitive: *Rastal. Exposition of words*. See *Bloodwit*. *Flet* writeth this word two other wayes, as *Flemenesfre-*
vic,

vie or *Flemesfreichtbe*, and interpreteth it, *habere catalla fugitivorum*: li. 1, ca. 47.

Fleta is a feigned name of a learned lawyer, that writing a booke of the common lawes of England, and other antiquities in the fleet, termed it thereof *Fleta*. Hee seemeth to have lived in Edward the seconds time, and Edward the thirds, *idem lib. 1, cap. 20, §. qui caperint, li. 2, ca. 66, §. item quod nullus*.

Fletwit, alias *Fredwit*, Skene, de verborum significatione, verb. *Melle-tum*, saith, that *Flichtwit* is a liberty to courts, and to take up the amercements *pro melleit*, hee giueth the reason. because *Flicht* is called Flitting, in French *Melle*, which sometime is conjoined with hand-strokes. And in some bookes, *Placium de melleit* is called, the moote or plee of beating or striking.

Flight, see *Finer*.

Florence, *an. 1 R. 3, ca. 8*. a kinde of cloath so called.

Floison, alias *Flotzam*, is a word proper to the seas, signifying any goods that by shipwracke bee lost, and lye floating or swimming upon the top of the water, which with *Jetson* and *lagon* and *shares*, be given to the Lord Admirall, by his letters patents. *Jetson* is a thing cast out of the ship, being in danger of wrecke, and beaten to the shore by the waters, or cast on the

shore by the mariners. *Coke vo. 6, fo. 106 a. Lagon, alias Lagam, vel Ligan*, is that which lieth in the bottome of the sea. *Coke ibid.* Shares are goods due to more by proportion.

Foder (*fodrum*) signifieth in our English tongue, a course kinde of meat for horses and other Cattell. But among the Feudists it is used for a prerogative that the prince hath, to bee provided of corn and other meat for his horses by his subjects, towards his Warres or other expeditions. *Arnoldus Clapmarus, de arcanis Imperii, lib. 1, cap. 11.* And reade *Hotoman, de verbis feudatilibus, litera f.*

Folgheres, or rather *Folgers*, be followers, if we interpret the word according to the true signification. *Bracton* sayth it signifieth, *Eos qui alii deserviunt*, *Lib. tertio, tract. 2, cap. 10.*

Folkmoote, is a Saxon word, compounded of *Folk*, i. *populus*, and *Gemetan*, i. *convenire*. It signifieth (as *M. Lambert* saith in his exposition of Saxon words, *verbo Ganventus*) two kind of courts, one now called the County court, the other called the Sheriffes Turne. This word is still in use among the Londoners, and signifieth, *celebram ex omni civitate convenium*. *Stow* in his Survey of London. But *M. Manwood* in his first part of Forest

lawes, pag. 111. hath these words: *Folkemote* is the Court holden in London, wherein all the folk and people of the Citty did complaine on the Major and the Aldermen, for misgovernment within the Citty.

Forbarre, is for ever to depive. *anno 9. Rich. 2. ca. 2.*

Force (*forcia*) is a french word, signifying (*vim, nervositatem, fortitudinem, virtutem*) in our common law, it is most usually applied to the evill part, and signifieth unlawfull violence. *West* thus defineth it: *Force* is an offence, by which violence is used to things or persons *parte 2. symb. titulo. Indictments. Sect. 65.* where also he divideth it thus: *Force* is either simple or compound. Simple is that which is so committed, that it hath no other crime adjoynd unto it; as if one by force doe onely enter into another mans possession, without doing any other unlawfull act there. Mixt force, is that violence, which is committed with such a fact, as of it selfe onely, is criminall; as if any by force enter into another mans possession, and kill a man, or ravish a woman there, &c. hee farther divideth it into true force, and force after a sort, and so proceedeth to divers other branches worth the reading, as forcible entry, forcible detaining, unlaw-

full assembly, Rowtes, Riots, Rebellions, &c.

Forcible detaining or withholding of possession, is a violent act of resistance by strong hand of men weaponed with harmes, or other action of feare, in the same place, or elsewhere, by which the Lawfull entry of Justices or others, is barred or hindred, *West. parte 2. symb. titulo. Indictments. Sect. 65.* *M.* of this see *Cromptons Justice of peace. fol. 58. b. &c. usq; ad 63.*

Forcible entrie (*Ingressus manu forti factus*) is a violent actuall entry into an house or land, &c. or taking a distresse of any person weaponed; whether he offer violence or feare of hurt to any there, or furiously drive any out of the possession thereof: *West. par. 2. symb. titulo. Indictments. Sect. 65.* *L.* of this see *Cromptons Justice of peace, fo. 58. b. 59. &c. usq; 63.* It is also used for a writ grounded upon the statute *anno 8. H. 6. ca. 9.* wherof reade *Fitzh. nat. br. 2c large, fo. 248.* See the new booke of Entries, *verbo Forcible Entrie.* See *Lamb. definition in certaine cases. Eiren. li. 2. ca. 4. pag. 145.*

Forein (*forinsecus*) commeth of the French (*forain. i. exterus, externus*) it is used adjectively in our common Law, and joyned with divers substantives in senses not unworthy the exposition, as *Forein matter*, that is matter triable in another County, *pl. co. fol.*

fo. 154. or matter done in another county. *Kitchin* fo. 126. *Forreinceplea*, (*forinsecum placitum*) is a refusal of the Judge as incompetent, because the matter in hand was not within his precincts: *Kitchin* fo. 75. & *an.* 4 *H.* 8, cap. 2. & *anno* 22 *eiusdem* cap. 2, & 14. *Forein* answer, that is, such an answer as is not triable in the County where it is made, *an.* 15 *Hen.* 6, ca. 5. *Forein service* (*forinsecum servitium*) that is, such service, whereby a meane Lord holdeth over of another, without the compasse of his owne fee. *Brook titulo Tenures*, fo. 251. num. 12 & 28. & *Kitchin* fol. 209. or else that which a Tenent performeth either to his owne Lord, or to the Lord paramount out of the fee. For of these services *Bracton* speaketh thus: *lib.* 2, cap. 16, m. 7. *Item sunt quedam servitia, quae dicuntur forinseca, quamvis sint in charta de feoffamento expressa & nominata: & quae ideo dici possunt forinseca, quia pertinent ad Dominum Regem, & non ad Dominum capitalem, nisi cum in propria persona profectus fuerit in servitio: vel nisi cum pro servitio suo satisfecerit domino Regi quocunque modo, & sunt in certis temporibus, cum casus & necessitas evenierit, & varia habent nomina & diversa: Quandoque enim nominantur forinseca, large sumpto vocabulo, quoad servitium Domini Regis,*

quandoque scutagium, quandoque servitium Domini Regis, & ideo forinsecum dici potest, quia sit et capitur foris, sive extra servitium quod sit Domino capitali. v. Brooke, Tenures 28, 95. *Forein service* seemeth to be Knights service, or Escuage uncertaine. *Perkins Reservations* 650. *Forein attachment, Attachamentum forinsecum*, is an attachment of foreiners goods found within a Liberty or city for the satisfaction of some citizen to whom the said forener oweth mony.

Forein apposer, (*forinsecarum oppositor*) is an officer in the Exchequer, to whome all Sherifes and Baylifes doe repaire, by him to bee opposed of their greene waxe, and from thence draweth downe a charge upon the Sherife and Bailife to the Clerk of the pipe.

Forest (*foresta*) is a French word signifying a great or vast wood. *Lien forestier et sauvage: locus sylvestris et saluosus.* The writers upon the common law define it thus: *Foresta est locus ubi ferae inhabitant vel includuntur. Gloss. in ca. cum dilecti. extra. de donatio, et Felinus in cap. Rodolphus, versu, quid autem foresta. extra de rescriptis*, speaketh to the same effect. Some other writers doe say it is called *foresta*, quasi *ferarum statio, vel intra mansio ferarum.* But as it is taken with us, M.

Mamwood, in his second part of *Forest Lawes*, ca. 1, m. 1. thus defineth it : A forrest is a certaine territorie of woody grounds and fruitfull pastures, priviledged for wilde beatts, and foules of forest, chase, and warren, to rest and abide in, in the safe protection of the King, for his princely delight and pleasure : which territory of ground so priviledged, is meered and bounded with unremoovable markes, meeres, and boundaries, either knowne by matter of record, or els prescription, and also replenished with wilde beatts of Venery, or chase, and with great coverts of vert, for the succour of the sayd wilde beatts, to have their aboad in : for the preservation and continuance of which said place, together with the vert and venison, there are certaine particular laws, priviledges, and officers belonging to the same, meet for that purpose, that are onely proper unto a Forest, and not to any other place. The same definition he hath, *parte 1, pag. 139*, which though it have many superfluities, yet it wel expresseth the nature of the thing, especially the explication adjoyned, which there is set downe by the said Author in both places, in his first part, *pa. 16*, where hee fetcheth a forest from such overgrowne antiquity, alledging for it the 2. booke of *Kin. ca. 2, ver. 24.*

Orca. 19, ver. 23. and the 104 Psalme, *ver. 20.* the 131, *ver. 6.* hee taketh license to sport himself, for though our English translation have the word Forest, to expresse the vastnesse of the Desart, yet if we looke to the original idiom, wee shall find no more reason to call those places forests, than either chases or parks.

The maner of making forests, as the same Author well setteth downe, *parte 1, pag. 142*, is this : The King sendeth out his Commission under the broad Seale of England, directed to certaine discreet persons, for the view, perambulation, meering and bounding of the place that hee mindeth to afforest. Which returned into the Chancery, proclamation is made thorowout all the shire, where the ground lieth, that none shall hunt or chase any manner of wilde beatts within that precinct, without the Kings speciall license, after which hee appointeth ordinances, lawes and officers, fit for the preservation of the vert and venison : and so becommeth this a forest by matter of record. The properties of a forest are these in speciall : first a forest, as it is truly and strictly taken, cannot be in the hands of any but the King : the reason is given by *M. Mamwood*, because none hath power to grant commission to a justice in Eire for the forest; but the King, *par. 1, pag.*

pag. 87. The second propriety bee the Courts, as the Justice sent every three yeares, the Swainmoot thrice every yeare, *Idem cod. pag. 90. et parte 2, ca. 1, nu. 4 et 5.* and the attachment once every forty dayes, *Idem cod. pa. 92.* The third propriety may be the officers belonging unto it, for the preservation of the vert and venison, as first the Justices of the forest, the warden or Keeper, the verders, the foresters, Agiltours, Regarders, Bayliffes, Bedels, and such like, which you may see in their places. See *Manwood, parte 2, ca. 1, nu. 4 et 5.* But the chiefe propriety of a forest, both by Master *Manwood, parte 1, pa. 144.* and Master *Crompton, pa. 146.* is the Swainmore; which, as they both agree, is no lesse incident unto it, than the court of Pyepowders to a Faire. Other Courts and Offices are not so requisite, in those forests that are in the hands of subjects, because they be not truly forests. But if this faile, then is there nothing of a forrest remaining, but it is turned into the nature of a Chace. See *Chace.* I reade of thus many forrests in England: The forest of Windsor in Berke-shire, *Cambd. Brit. p. 213.* of Pickering, *Crompton fol. 190.* Of Shir-wood, *idem, fol. 202.* of Englewood in Cumberland, *an. 4 Hen. 7, ca. 6,* and *Crompton fol. 42.* of Lancaster, *idem, fol. 196.* of Wolmore, *Stones*

Annals, pa. 462. Of Gillingham, *idem, pag. 113.* Of Knaresborow, *an. 21 Hen. 8, ca. 17.* of Wal-tham, *Cambd. pa. 328.* of Breden, *idem pag. 176.* Of Whitechare, *idem p. 150.* Of Wierfdale, *idem pa. 589.* and Lownesdall, *ibidem.* of Deane, *idem pa. 266, et an. 8, Hen. 6, cap. 27.* and *an. 19 Hen. 7, ca. 8.* Of Saint Leonards in South-sex, *Manwood parte 1, pa. 144.* Of Waybridge and Sapler, *Idem eodem pa. 63.* Of Whitvey, *pa. 81.* Of Ekenham, *Cambden pa. 441.* Of Rockingham, *idem pag. 396.* Forest de la mer, *idem, pag. 467.* Of Huckstow, *idem pag. 456.* Of Hay, *Manwood parte 1, pa. 144.* Of Cantselly, *eodem pag.* Of Ash-downe in the county of Suffex, *an. 37 H. 8, ca. 16.* Forests of Whirtilwood and Swase in the county of Northampton, *an. 33 H. 8, cap. 38.* Of Fronsfelwood in the county of Somerset, *Coke li. 2, Cromwells case, fo. 71 b.* I heare also of the forest of Exmore in Devonshire. There may be more, which he that listeth may looke for.

Forester (forestarius) is a sworne officer of the forest, appointed by the Kings letters patents to walke the forest both early and late, watching both the vert & the venison, attaching and presenting all trespassers against them, within their own bayliwicke or walke: whose oath you may see in *Crompton, fol.*

fo. 201. And though these letters patents bee ordinarily granted, but *quam diu bene se gesserint*, yet some have this grant to them and their heires, and thereby are called Foresters or fosters in fee: *Idem fol. 157 & 159. and Manwood parte 1, pag. 220.* whom in Latine Crompton calleth *Forestarium feudis*, fo. 175.

Fore-judger, (*foris judicatio*) signifieth in the Common Law, a Judgement, whereby a man is deprived, or put by the thing in question. It seemeth to bee compounded of *fors*, i. *præter*, and *juger*, i. *judicare*. *Bracton, lib. 4, tract. 3, cap. 5*, hath these words: *Et non permittas quod A. capitalis dominus feudi illius, habeat custodiam heredis, &c. quia in Curia nostra foris judicatur de custodia, &c.* So doth Kirchin use it, fol. 209. and Old nat. brev. fo. 44, and 81. and the statute, anno 5 Edw. 3, ca. 9. and anno 21 R. 2, ca. 12. *Forjudicatus* with Authors of other nations signifieth as much as Banished, or as *Deportatus* in the ancient Romane law, as appeareth by *Vincentius de Franchis, descif. 102. Mathew de Afflictis, lib. 3 feud. Rub. 31. pa. 625.*

Foregoers bee Purveyors going before the King or Queen, beeing in progresse, to provide for them. anno 36 Ed. 3, ca. 5.

Forfeiture (*forisfactura*) cometh of the French word *Forfait*, i. *scelus*: but signifieth in our language, rather the effect of transgressing a penall Law, than the transgression it selfe, as forfeiture of Escheats, anno 25 Edw. 3, ca. 2, *statut. de Proditionibus*. Goods confiscate, and goods forfeited differ, *Staw. pl. Co. f. 186.* where those seeme to be forfeited that have a knowne owner, having committed any thing wherby he hath lost his goods; and those confiscate, that are disavowed by an offender as not his owne, nor claimed by any other. I thinke rather, that forfeiture is more generall, and confiscation particular, to such as forfeit onely to the Princes Exchequer. Reade the whole chapter, li. 3, ca. 24. Full forfeiture, *plena forisfactura*, or therwise called *plena vita*, is forfeiture of life and member, and all else that a man hath. *Manwood, parte 1, pag. 341.* The Cannon Lawyers use also this word, *Forisfacta sunt pecuniaria poene delinquentium. Glos. in cap. Presbyteri extra. de poenis.*

Forfeiture of marriage (*forisfactura maritagii*) is a writ lying against him, who holding by knights service, and beeing under age and unmarried, refuseth her, whom the Lord offereth him, without his disparagement, and marieth another. *Fitz. nat. br. fol.*

141. H. I. K. L. Register origin. fol.
163. b.

Forſeng, quietantiam prioris priſa
deſignat: in hos enim delinquent
Burgenſes Londonenſes, cum priſas
ſuas ante priſas regiſ faciunt. Fleta.
li. 1, ca. 47.

Forgery, ſee here next following,
Forger of falſe deeds.

Forger of falſe deeds, commeth of
the French Forger, i. accendere, fa-
bricare, conſlare, to beate on an
anvile, to faſhion, to bring in-
to ſhape; and ſignifieth in our
common law, either him that
fraudulently maketh & publiſheth
falſe writings, to the prejudice
of any mans right, or elſe the
writ that lieth againſt him that
committeth this offence. Fitz.
Nat. brev. fo. 96, b, c, calleth it a
writ of Deceit. See Tearmes
of Law, verbo Forger. and Weſts
Symbol. parte 2, Indictments, Se-
ctio 66. See the new booke of
Entries, verbo Forger. de falſis.
This is a branch of that which
the Civilians call *Crimen falſi*,
Nam falſarius eſt, qui decipiendi
cauſa ſcripta publica falſificat. Spec-
ulator. de crimine falſi. Falſi cri-
men propriè dicitur, quod utilitatis
privatæ cauſa factum eſt. Comma-
mus, li. 5, ca. 7, m. 4. Ad eſſe falſi-
tatis tria requiruntur: mutatio veri-
tatis dolus, & quod alteri ſit noci-
vum. Quorum ſi alterum deſit falſi-
tas non eſt punibilis. Hoſtienſis, et A-
zo in ſuis ſummis.

Foriſter. See *Foreſter.*

Formdon (*Breve formatum do-*
nationis) is a writ that lyeth for
him, that hath right to any lands
or tenements by vertue of any
entaile, growing from the ſta-
ture of *Weſtm. 2. cap. 1.* It lyeth
in three ſorts; and accordingly
is called *forma donationis*, or
formdon in the deſcender: *form-*
don in the reverter, or *formdon* in
the remainder. *Formdon* in the
deſcender lyeth for the recovery
of lands, &c. given to the one and
the heires of his body, or to a
man and his wife, and the
heires of their two bodies, or to
a man and his wife being Coſin
to the Donour, in francke mari-
age, and afterward alienated by
the Donee. For after his deceaſe
his heire ſhall have this writ a-
gainſt the tenent or alience. Fitz.
nat. br. fol. 211. He maketh three
ſorts of this *formdon* in the deſ-
cender: The firſt is, in the man-
ner now expreſſed: The ſecond
is, for the heire of a Coparcener,
that alienateth and dieth, fo. 214.
The third is called by him (*In*
ſimul tenuit) fol. 216. which lyeth
for a Coparcener or heire in Ga-
velkind, before partition againſt
him, to whom the other Copar-
cener or heire hath alienated and
is dead. *Formdon* in the Reverter,
lyeth for the Donour or his
heires, where land entailed to
certaine and their iſſue, with
condi-

condition for want of such issue to revert to the Donour and his heires, against him to whom the Dōnee alienateth, after the issue extinct, to which it was entailed, *Fitzb. nat. brev. fo. 219.* Formedon in the remainder lieth where a man giveth lands in taile, the remainder to another in tayle, and afterward the former tenent in taile dieth without issue of his body, and a stranger abateth, then hee in the remainder shall have this writ. *Fitzb. nat. br. fol. 217.* See the *Register originall*, fo. 238, 242, 243. Of this, see the new booke of Entries, *verb. Formedon.*

Forsechoke, seems to signifie originally as much as forsaken, in our modern language, or *derelictum*, with the Romans. It is especially used in one of our statutes, for land or tenements seised by the Lord, for want of services due from the tenant: and so quietly held and possessed beyond the yeare and day. As if wee should say, that the tenent which seeing his land or tenements taken into the Lords hand, and possessed so long, taketh not the course appointed by law to recover them, doth in due presumption of Law disavow or forsake whatsoever right hee hath unto them. See the statute, *anno 10 Edw. 1, cap. unico.*

Forstall, is to be quit of amer-ciements and cattels arrested within your land, and the amercia-ments thereof comming. New termes of law.

Forstalling (*forstallatio*) is partly French, for (*estaller*) is in that tongue, as much as *merces exponere, expedire, explicare*) or to shew wares in a Market or Faire. It signifieth in our common law, the buying or bargaining for any victuals or wares coming to be sold toward any Faire or Market, or from beyond the Seas toward any City, Port, Haven, Creeke, or road of this Realme, and before the same be there, *anno 51. H. 3. stat. 6. West. parte 2. Symbol. titulo indictments. sect. 64.* *Forstaller*, in *Cromptons Jurisdiction*, fol. 153. is used for stopping of a Deere broken out of the Forest, from returning home againe, or laying betweene him and the Forest, in the way that he is to returne: See *Regratours* and *Engrossers*. See *Cromptons Justice of Peaces*, fol. 69. a. The author of the new termes of law defineth it thus. *Forstalling* (*Forstallamentum*) is the buying of Corne, Cattell, or other Merchandise by the way as it cometh toward the Faire or Market to be sold, to the intent to sell the same againe at a more high and deere price. *Fleta* saith thus of it, *significat obtrusionem via vel impedimentum*

mentum transitus & fuga averiorum. lib. i. cap. 47.

Fortescue, was a learned Lawyer, and Lord Chancellor in *Henry* the 6. daies; who writ a booke in the commendation of our common lawes.

Fortles (*forte letum*) cometh neere the French (*fortels. i. valenticulus, forticulus*) and signifieth in our common law, a place of some strength, *Old nat. br. fol. 45.* This in other Countries is written (*fortalium*) and signifieth (*castrum.*) *Scraderus select. & practabil. quest. sect. 12. num. 7, & 8.*

Fother, is a weight of twenty hundred, which is a waine or cart load. *Speight* in his *Annot.* upon *Chawcer.*

Fourche (*Afforciare*) seemeth to come of the French (*Fourchir. i. trincare lingua*) and signifieth in our common law, a putting off, prolonging, or delay of an action. And it appeareth no unpleasant Metaphor: for as by stammering, wee draw out our speech, not delivering that wee have to say in ordinary time, so by fourching wee prolong a suit that might be ended in a shorter space. To fourch by essoine, *Westm. i. cap. 24. anno 3. Edw. prim.* where you have words to this effect: *Coparceners, Joint-tenants, and Tenents* in common, may not fourch by essoine, to es-

soine severally, but have onely one essoine, as one sole tenant may have. And *anno 6. Edw. i. ca. 10.* You have it used in like fort.

Footgeld, is a word compounded of these two German words (*fous. i. pes.*) and (*gyldan. i. solvere*) and it signifieth an amercement for not cutting out the balles of great dogs feet in the Forest. See *Expediatur.* And to be quit of *footgeld* is a priviledge to keepe dogs within the Forest, unlawed, without punishment or controlment, *Cromptons Jurisd. fol. 197. Manwood, parte pri. of his Forest lawes, pag. 86.*

Fowles of warren. See *Warren.*

Founder, is hee that melteth metall, and maketh any thing of it, by casting it into a mould, *Sec. anno. 17. Rich. 2. cap. 1.* derived of the verbe (*fundere*) to powre.

Franchise (*libertas, franchisea*) cometh of the French (*franchise*) so signifying: it is taken with us for a priviledge, or an exemption from ordinary jurisdiction, and sometime an immunity from tribute. It is either personall or reall, *Crompt. jurisd. fol. 141.* that is belonging to a person immediatly, or else by meanes of this or that place, or Court of immunity, whereof hee is either chief, or a member.

In what particulars things franchises commonly consist, see *Britton*, cap. 19. *Franchise royall* anno 15. R. 2. ca. 4. et anno 2. H. 5. cap. 7. in fine, seemeth to be that, where the Kings writs runne not: as *Chester* and *Durham*, they are called Seignories royall, anno 28. H. 6. cap. 4. The author of the new *Termes of law*, saith, that *franches royall* is, where the King granteth to one and his heires, that they shall be quit of tolle or such like: See *franchise* in the new booke of Entries. See *Bracton*, lib. 2. cap. 5. See *Sac*.

Frank almoine (*libera Eleemozyna*) in french (*frank Ausmoine*) signifieth in our common law, a tenure or title of lands. *Britton* cap. 66. num. 5. saith thus of it: *Frank almoine* is lands or tenelements bestowed upon God, that is, given to such people, as bestow themselves in the service of God, for pure and perpetuall almes: whence the Feoffours or givers cannot demand any terrestriall service, so long as the lands, &c. remaine in the hands of the Feoffees. With this agreeth the grand Customary of *Normandie*, cap. 32. Of this you may reade *Bracton* at large, lib. 2. cap. 5. & 10. See *Fitzb. nat. br. fol. 211*. See the new booke of Entries, verbo, *Frank almoine*. But *Britton* maketh another kind of this land, &c. which is given in

almes, but not free almes: because the tenents in this are tyed in certaine services to the Feoffour. *Britton ubi supra*.

Frank bank (*francus bancus*) in true french (*franc bank*) signifieth, word for word, a free bench or seat: and among our Law writers, it seemeth to be used for Copyhold lands, that the wife being espoused a virgin, hath after the decease of her husband for her dower, *Kitchin*, fol. 102. *Bracton*, lib. 4. tract. 6. cap. 13. m. 2. hath these words: *Consuetudo est in partibus illis, quod uxores maritorum defunctorum habeant francum bancum suum de terris sockmannorum, et tenent nomine dotis*, *Fitzb.* calleth it a custome, whereby in certaine Cities the wife shall have her husbands whole lands, &c. for her dower, *Nat. br. fol. 150*. P. See *Plowden case Newn*, fol. 411.

Frank chase (*Libera chasea*) is a liberty of free chase, whereby all men having ground within that compasse, are prohibited to cut downe wood, or discover, &c. without the view of the Forester, though it be his owne Demesne, *Cromptons Jurisdictions*, fol. 187.

Frank fee (*feudum francum, seu liberum*) is by *Broke tit. Demesne*, m. 32. thus expressed: That which is in the hand of the King or Lord of any Maner, being

being auncient demesne of the Crowne (*viz.* the Demeasnes) is called *franke fee*, and that which is in the hands of the tenents, is auncient demesne onely: see the *Register origin. fol. 12. a.* Whereby it seemeth, that that is *franke fee*, which a man holdeth at the Common Law to himselfe and his heires, and not by such service as is required in auncient demesne, according to the custome of the manner. And againe, I find in the same booke, *fol. 14. b.* a note to this effect, that the lands which were in the hands of King Edward the Saint, at the making of the booke called *Doomesday*, is ancient demesne: and that all the rest in the Realme is called *frank fee*: with the which note *Fitzherb. agreeth, na. br. fol. 161. E.* So that all the land in the Realme, by this reason, is either ancient demesne, or *frank fee*. The new expounder of the Law termes defineth *frank fee*, to be a tenure in fee simple, of lands pleadable at the common law, and not in ancient demesne: See *Fachineus, lib. 7. cap. 39.* who defineth *feudum francum esse, pro quo nullum servitium prestaturo Domino*: with whom agreeth *Zafius de feudis parte 12.* saying, that therefore it is *feudum improprium, quia ab omni servitio liberum.*

Frank ferme (*firma libera*) is

land or tenement, wherein the nature of fee is changed by feoffment, out of knights service, for certaine yearely services, and whence neither homage, wardship, mariage, nor reliefe may bee demanded, nor any other service not contained in the feoffment. *Britton ca. 66. num 3. see Fee ferme.*

Frank law (*libera lex*) See *Cromptons Justice of peace, fol. 156. b.* where you shall find what it is, by the contrary. For he that for an offence, as conspiracie, &c. leeseeth his *franke law*, is said to fall into these mischiefs: first, that hee may never bee impaneled upon any jury, or assise, or otherwise used in testifying any truth. Next, if he have any thing to doe in the Kings Court, he must not approach thither in person, but must appoint his Attorney. Thirdly, his lands, goods, and chatels must bee seised into the Kings hands: and his lands must bee estreated, his trees rooted up, and his body committed to prison. For this, the said author citeth the booke of Assises, *fol. 59. Conspiracy. F. 11. 24. Ed. 3. fol. 34. See Conspiracy.*

Frank marriage (*liberum maritagium*) is a tenure in tail special, growing from these words in the gift comprised: *Sciant &c. me M. H. de W. dedisse & concessisse, et pre-senti charta mea confirmasse I. A. filio*

meo & Margerie uxori ejus, filie vere T. N. in liberum maritagium unum messuagium, &c. West. parte 1. Symbol. li. 2. sect. 303. The effect of which words is, that they shall have the land to them, and the heires of their bodies, and shall doe no fealty to the donour, untill the fourth degree. See new Termes of law. Glanvilk li. 7. ca. 18. & Bracton li. 2. ca. 7. num. 4. where hee divideth maritagium, in liberum & servitio obligatum. See Mariage. Fleta giveth this reason why the heires doe no service untill the fourth discent, ne donatores vel eorum heredes per homagium receptionem, a reversione repellantur. And why in the fourth discent and downeward, they shall doe service to the donour, quia in quarto gradu vehementer presumitur, quod terra non est pro defectu heredum donatariorum reversione, libro tertio. ca. 11. in princ.

Frankpledge (Franciplegium) is compounded of (Franc. i. liber) and (pleige. i. fidejussor) and signifieth in our common law, a pledge or surety for free-men. For the ancient custome of England for the preservation of the publike peace, was that every free borne man, at fourteene yeeres of age, after Bracton (religious persons, Clerkes, Knights, and their eldest sonnes excepted) should find surety for his truth

toward the King and his subjects, or else be kept in prison, whereupon a certaine number of neighbors became customably bound one for another, to see each man of their pledge forth comming at all times, or to answer the transgression committed by any broken away. So that whosoever offended, it was forthwith inquired in what pledge he was, and then they of that pledge, either brought him forth within 31. daies to his answer, or satisfied for his offence. This was called Frank pledge, causa qua supra, and the circuit thereof was called Decenna, because it commonly consisted of 10. households: And every particular person thus mutually bound for himselfe and his neighbours, was called Decennier, because he was of one Decenna or another: This custome was so kept, that the Sheriffes, at every county court, did from time to time take the oathes of young ones, as they grew to the age of 14. yeares, and see, that he were combined in one dozen or another: whereupon this branch of the Sheriffes authoritie was called visus Franciplegii, view of frankpledge. See the statute for view of Frankpledge, made anno 18. Ed. 2. See Decennier, Leete veiw of Frankpledge, and Freeborgh. That this discipline

pline is borrowed by us of the *Romane Emperours*, or rather *Lombards*, appeareth most manifestly in the second booke of *Fenids. ca. 53.* upon which if you read *Hotoman*, with those Authors that hee there recordeth, you will thinke your labour well bestowed. Reade more of this. *viz.* what articles were wont to be inquired of in this Court, in *Hornes mirrour of Justices, lib. 1. ca. de la venue des francs pleges*, and what these articles were in ancient times, see in *Fleta. lib. 2. ca. 52.*

Fredwit. See Fletwit.

Free chappell (libera Capella) by some opinion, is a Chapell founded within a Parish for the service of God, by the devotion and liberalitie of some good man, over and above the mother Church, unto the which it was free for the Parishioners, to come or not to come, and endowed with maintenance by the founder, and thereupon called free: I have heard others say, and more probably, that those only be free chappels, that are of the Kings foundation, and by him exempted from the Jurisdiction of the Ordinarie: but the King may license a subject to found such a Chappell, and by his Charter exempt it from the Ordinaries visitation also. That it is called free in respect it is exempted from

the Jurisdiction of the Diocefan, appeareth by the Register originall, *fol. 40 & 41.* These chappels were all given to the King: with chaunteries, *anno 1. Edw. 6. ca. 14. Free chappell of Saint Martin le grand. anno 3. Edward 4. capite quarto, & anno 4. Ed. quarti ca. 7.*

Free bould (liberum tenementum) is that land or tenement, which a man holdeth in fee, fee taile, or at the least, for terme of life, *Braet. lib. 2. ca. 9.* The new expounder of the law termes saith, that freehold is of two sorts. Freehold in deed, and freehold in law: Freehold in deed, is the reall possession of land or tenements in fee, fee taile, or for life. Freehold in law, is the right that a man hath to such land or tenements before his entry or seisure. I have heard it likewise extended to those offices, which a man holdeth, either in fee, or for terme of life. *Britton* defineth it to this effect. *Frank tenement* is a possession of the soile, or services issuing out of the soile, which a free man holdeth in fee to him and his heires, or at the least, for tearme of his life, though the soile be charged with free services or other, *ca. 32. Freehold* is sometime taken in opposition to villenage. *Braet. lib. 4. 37. & 38. M. Lamberd* (in his ex-

plication of Saxon words, *verbo Terra ex scripto* saith, that land in the Saxons time was called either *Bockland*, that is holden by book or writing : or *Folcland*, that is holden without writing : The former, hee reporteth, was held with farre better conditions, and by the better sort of tenants, as Noble-men and Gentlemen, being such as we now call free hold : the latter was commonly in the possession of clownes, being that which wee now call at the will of the Lord : I find in the Register judicall, fol. 68. a. and in divers other places, that hee which holdeth land upon an execution of a Statute Merchant, untill hee bee satisfied the debt, *tenet ut liberum tenementum sibi & assignatis suis*, and fol. 73. b. I read the same of a tenant *per elegit*; where I think the meaning is not, that such tenants bee free-houlders, but as free-houlders for their time, that is untill they have gathered profits to the value of their debt. *Freeboulders* in the ancient lawes of Scotland, were called *Milites*. *Skene de verb. signif. verb. Milites* : The D. and Student saith, that the possession of land, after the law of England, is called *frank tenement*, or *free-hould*. fol. 97. a.

Frenchman (*Francigenia*) was wont to bee used for every out-

landish man. *Bracton li. 3. tract. 2. cap. 15.* See *Englecerie*.

Frendwite, vel *Iuseng*, significat *quietantiam prioris prise ratione convivii*, *Fleta. li. 1. ca. 47.*

Frendles man, was wont to be the Saxon word for him, whom wee call an out-law. And the reason thereof I take to be : because hee was upon his exclusion from the Kings peace and protection, denied all help of friends, after certaine dayes. *Nam foris fecit amicos. Bract. li. 3. tract. 2. ca. 12. nu. 1.* whose words are these. *Talem vocant Angli (utlagh) & alio nomine antiquitus solet nominari, sc: Frender man: & sic videtur quod foris fecit amicos: & unde si quis talem post utlagariam & expulsionem scienter paverit, receptaverit, vel scienter communicaverit aliquo modo, vel receptaverit, vel occultaverit, eadem pena puniri debet, qua puniretur utlagatus: ita quod exeat omnibus bonis suis & vita, nisi Rex ei pareat de sua gratia.*

Fresh disseisin (*Frisca disseisina*) commeth of the french (*Fraiz. i. recens*) and *disseisir. i. possessione ejicere*) It seemeth to signifie in our common law, that disseisin that a man may seeke to defeate of himselfe, and by his own power, without the helpe of the King or his Judges, *Britton. ca. 5.* and that is such disseisin, as is not above 15. dayes old. *Bract. lib. 4. cap. 5.* whom you may reade at large

large of this matter, concluding that it is arbitrarie, and so doth Britton, ca. 65. but ca. 43. hee seemeth to say, that in one case it is a yeare. See him also, ca. 44.

Fresh fine, is that which was levied within a yeare past, *West. 2. ca. 45. an. 13. Ed. 1.*

Fresh force (*frisca fortia*) is a force done within forty dayes, as it seemeth by *Fitzh. nat. br. fol. 7. C.* For if a man bee disseised of any lands or tenements, within any City or Borough, or deforced from them after the death of his Ancestor, to whom hee is heire : or after the death of his tenent for life or in taile : hee may within forty dayes after his title accrued, have a Bill out of the Chancerie to the Maior, &c. See the rest.

Fresh suit (*recens insecutio*) is such a present and earnest following of an offendour, as never ceaseth from the time of the offence committed or elpied, untill hee be apprehended. And the effect of this, in the pursuit of a Felon, is, that the partie pursuing shall have his goods restored him againe : whereas otherwise they are the Kings. Of this see *Stamf. pl. cor. li. 3. ca. 10. & 12.* where you shall find handled at large, what suit is to be accounted fresh, and what not. And the same Author in his first booke, cap. 27. saith, that fresh suit may continue for

seven yeares. See *Cokes Reports, lib. 3. Rigewaies case.* *Fresh suit*, seemeth to be either within the view or without : for *M. Manwood* saith, that upon fresh suit within the view, Trespasgers in the Forest may be attached by the officers pursuing them, though without the limits and bounds of the Forest, *parte 2. cap. 19. num. 4. fol. 121.*

Froborgh : alias *Fridburgh* : alias *Frithborg* (*Frideburgum*) cometh of two Saxon words : (*Freo. i. liber, ingenuum*) and (*borgh i. fidejussor*) or of (*Frid. i. pax*) & (*Borgha. i. sponsor*) This is otherwise called after the French (*Franck pledge*) the one being in use in the Saxons time, the other sithence the Conquest : wherefore for the understanding of this, reade *Franck pledge*. That it is all one thing, it appeareth by *M. Lamberd* in his explication of Saxon words, *verbo Centuria* : And againe in the lawes of King *Edward*, set out by him, fol. 132. in these words : *Prater ea est quedam summa et maxima securitas, per quam omnes statu firmissime sustinentur : viz. ut unusquisque stabiliat se sub fidejussionis securitate, quam Angli vocant (Freo-borghes) soli tamen Eboracenses, dicunt eandem (Tienmannatale) quod sonat latine decem hominum numerum. Hec securitas hoc modo fiebat, quod de omnibus vil-*

lia totius regni sub decenniali fidejussione debebant esse universi : ita quod si unus ex decem forsificerit, novem ad rectum eum haberent : quod si aufereret, daretur lege terminus ei 31. dierum : ut quæsitus interim & inventus, ad justitiam Regis adduceretur, & de suo illico restauraret damnum quod fecerat. Et si ad hoc forsificeret, de corpore suo, justitia fieret. Sed si infra prædictum terminum inveniri non posset, &c. as in the booke : Bracton maketh mention of (Fridburgum) lib. 3. tract. 2. cap. 10. in these words: Archiepiscopi, Episcopi, Comites, & Barones & omnes qui habent Soc, & Sak, Tol, & Team, & hujusmodi libertatis, milites suos & proprios servientes, armigeros sc. dapiferos, & pincernas, camerarios, coquos, pistores, sub suo Fridburgo habere debent. Item & isti suos Armigeros, & alios sibi servientes. Quod si cui forsificerint, ipsi domini sui habeant eos ad rectum, et si non habuerint, solvant pro eis forsifacteram. Et sic observandum erit de omnibus aliis, qui sint de alicujus manupastu. Out of these words, I learne the reason, why great men were not combined in any ordinary Dozeine, and that is, because they were a sufficient assurance for themselves, and for their meniall servants : no lesse then the ten were one for another in ordinary Dozeins. See Frankpledge : See Skene de verborum significati-

one. verb. Freiborgh. Fleta writeth this word (frithborgh) and useth it for the principall man, or at the least, for a man of every Dozein. Frithborgh (saith hee) est laudabilis homo testimonii liber vel servus, per quem omnes juxta ipsam commorantes firmiori pace sustententur sub stabilitate fidejussionis ejus vel alterius per denarium nummum, unde quilibet quasi plegius alterius : ita quod si unus feloniam fecerit, novem tenentur ipsum ad standum recto presentare. li. 1. c. 47. sect. Frithborgh. See Roger Howden, parte poster. suorum annal. in Henrico secundo. fol. 345. a. b.

Frier (frater) commeth of the French (frere) there be foure orders reckoned of them, anno. 4. H. 4. cap. 17. viz. Minours, Augustines, Preachers, and Carmelites, the foure principall orders, of which the rest descend. See in Zechius de repub. ecc. pag. 380. Looke Linwood, titulo de relig. domibus. cap. 1. verbo. Sancti Augustin.

Frier observant (frater observans) is an order of Franciscans : for the better understanding of whom, it is to be noted, that of those 4. orders mentioned in the word (Frier) the Franciscans, are minores tam Observantes quam Conventuales & Capuchini. Zechius de Repub. Eccl. tract. de regular. cap. 2. These Friers observants, you find spoken of anno 25.

H. 8. cap. 12. who be called ob-
servants, because they are not
combined together in any Cloy-
ster, Covent, or Corporation, as
the conventuals are: but onely tye
themselves to observe the Rites
of their Order, and more strictly
then the Conventuals doe: and
upon a singularitie of zeale, sepa-
rate themselves from them, li-
ving in certaine places, and com-
panies of their owne chusing. And
of these you may reade *Hospinian.*
de orig. & progress. Monachatus.
fol. 878. cap. 38.

Friperer, is taken from the
French (*frapier*) *interpolator*, one
that scowreth up and cleanseth old
apparell to sell againe. This word
is used for a bastardly kind of bro-
ker. *anno 1. Jacob. cap. 21.*

Frithborough. See *Freeborgh*.

Frithsoken, signifieth suretie of
defence, as *Saxon* saith in the de-
scription of *England*, cap. 12. It
seemeth to come of these two
Saxon words, *frith*, or *frid*, or
(*fred*) i. *pax*, and (*soken*. i. *qua-*
rere) *Fleta* tearmeth it *frithsokene*,
vel forsokene, yeelding this reason,
Quod significat libertatem habendi
franci plegii.

Fuer (*fuga*) commeth of the
French (*fuir*, i. *fugere*) though
it be a verbe, yet it is used substan-
tively in our Common Law, and
is twofold: *fuer in fait*, (*in facto*)
when a man doth apparently and
corporally flye, and *fuer in ley*,

(*in lege*) when being called in
the County, he appeareth not un-
till he be out-lawed: for this is
flight in interpretation of Law.
Starvns. pl. cor. lib. 3. cap. 22.

Fugitives goods, (*bona fugitivo-*
rum) be the proper goods of him
that flyeth upon felony, which
after the flight lawfully found,
doe belong to the King. *Coke vol.*
6. fol. 109. b.

Furlong, (*ferlingum terra*) is
a quantitie of ground contain-
ing twentie Luggs or Poles in
length, and every Pole sixteene
foote and a halfe, eight of which
Furlongs make a Mile, *Anno*
35. Edward. prim. cap. 6. It is
otherwise the eighth part of an
Acre. See *Acre*. In the former
signification the *Romanes* call it
(*stadium*,) in the latter (*juge-*
rum. This measure which wee
call a Pole, is also called a Perch,
and differeth in length, according
to the custome of the Countrey.
See *Perch*.

Furre (*furrura*) commeth of
the French (*fourrer*. i. *pellicu-*
lare) to line with skinnes. Of
furre I find divers strange kinds
in the Statute, *anno 24. H. 8. cap.*
13. as of *Sables*, which is a
rich furre of colour betweene
blacke and browne, being the
skinne of a beast called a Sa-
ble, of quantitie betweene a
Polecat; and an ordinarie Cat,
and of fashion like a Polecat,

bred in *Ruscia*, but most and the best in *Tartaria*. Lucerns, which is the skin of a Beast so called, being neere the bignesse of a Wolfe, of colour betweene red and browne, something mailed like a Cat, and mingled with blacke spots, bred in *Muscovia* and *Ruscia*, and is a very rich Furre. Genets, that is the skin of a Beast so called, of bignesse betweene a Cat and a Weezle, mailed like a Cat, and of the nature of a Cat, bred in *Spaine*; Whereof there bee two kindes, blacke, and gray; and the blacke the more precious Furre, having blacke spots upon it hardly to be seene. Foines, is of fashion like the Sable bred in *France* for the most part: the top of the Furre is blacke, and the ground whitish. Marterne, is a beast very like the Sable, the skin something courser, it liveth in all Countries that be not too cold, as *England*, *Ireland*, &c. and the best be in *Ireland*. Miniver, is nothing but the bellies of Squirrels, as some men say: others say, it is a little vermin like unto a Weezle milke white, and commeth from *Muscovie*. Fitch, is that which wee otherwise call the Polecat heere in *England*. Shankes, be the skin of the shank or leg of a kind of Kid which beareth the Furre, that wee call Budge. Calaber, is a little Beast,

in bignesse, about the quantitie of a Squirrell, of colour gray, and bred especially in High *Germanie*.

G

GAbell (*gabell*, *gablum*) commeth of the French (*gabelle*. i. *vectigal*) and hath the same signification among our old Writers, that (*gabelle*) hath in *France*, for *M. Camden* in his *Britannia*, pag. 213. speaking of *Wallingford*, hath these words: *Continebat 276. bagas. i. domos reddentes novem libras de gablo*: and pag. 282. of *Oxford* these: *Hec urbs reddebat pro telonio & gablo, & aliis consuetudinibus per annum, Regi quidem viginti libras, & sex sextarios mellis: Comiti vero Algaro decem libras. Gabella* (as *Cassaneus* defineth it, *de consuet. Burgund.* pag. 119. *Est vectigal quod solvitur pro bonis mobilibus, id est, pro hiis que vehuntur, distinguish it from Tributum, quia Tributum est proprie, quod fisco vel Principi solvitur pro rebus immobilibus.*

Gage, (*vadium*) commeth of the French (*gager*. i. *dare pignus, pignore certare*) and is it selfe a French word nothing changed, but in pronounciation. It signifieth with us also, a pawne or pledge, *Glanville, lib. 10. cap. 6.* where he saith thus: *Quandoque*

res mobiles ponuntur in vadium, quandoque res immobiles, and a little after that, thus : *Inradiatur res quandoque ad terminum, quandoque sine termino. Item quandoque inradiatur res aliqua in mortuo vadio, quandoque non.* And from that Chapter to the end of the twelfth in the same booke, he handleth this only thing. Though the word (*gage*) bee retained as it is a substantive, yet as it is a verbe, the use hath turned the *G.* into *W.* so as it is oftener written (*wage* :) as to wage deliverance, that is, to give securitie that a thing shall bee delivered. For if hee that distrained, being sued, have not delivered the cattell that were distrained, then hee shall not onely avow the distresse, but (*gager deliverance*) i. put in suretie, that hee will deliver the cattell distrained. *Fitzh. nat. br. fol. 74. D. & 67. F.* whom see also *fol. 67. F. G.* yet in some cases, hee shall not bee tyed to make this securitie : as if the cattell died in pound. *Kitchin. fol. 145.* or if he claime a propriety in the cattell sued for. Termes of the Law. To wage law what it is, see in his place. *verbo. Lawe.* See *Mortgage.*

Gager deliverance. See *Gage.*

Gayle. See *Gaoll.*

Gainage, (Wainagium) is neere to the French (*Gaignage. i. questus, lucrum*) and signifieth in our

common law, the land held by the baser kind of Sokenen or villeines. *Bracton. lib. 1. cap. 9.* where he hath these words, speaking of servants : *Et in hoc legem habent contra dominos, quod stare possunt in iudicio contra eos de vita & membris propter sevitiā dominorum, vel propter intolerabilem injuriam. Ut si eos destruant, quod saluum non possit eis esse Wainagium suum. Hoc autem verum est de illis servi, qui tenent in antiquo dominico corona.* And againe, *lib. 3. tract. 2. cap. 1. Miles & liber homo non amerciaabitur nisi secundum modum delicti, secundum quod delictum fuit magnum vel parvum, & salvo contenemento suo : Mercator verò, non nisi salva mercandiza sua : & villanus, non nisi salvo Wainagio suo.* This in *Westm. 1. cap. 6. ann. 3. Ed. prim.* is called *Gaynure* : and againe, *cap. 17.* and in *magna charta, ca. 14.* it is called *Wainage*. I find it in the *old. nat. br. fol. 117.* called *Gainor, viz.* in these words : The writ of *Aik* was *præcipe, &c. quod reddat unam bovata[m] terre, & unam bovata[m] marisci* : and the writ was abated for that the oxegang is alwayes of a thing that lyeth in gainor. I thinke this word was used of lands usually plowed, because they that had it in occupation, had nothing of it but the profit and fruite raised of it by their owne paines, toward their suste-

nance, nor any other title, but at the Lords will. Gainor againe in the same booke, fol. 12. is used for a Sokeman, that hath such land in his occupation. In the 32. chapter of the Grand Customary of Normandie: *Gaigneurs be ruricola qui terras elemosinatas possident*: and Britton useth gainer, for to plow or till, fol. 65. a. & 42. b. West. parte 2. symbol. titulo, Recoveries, sect. 3. hath these words: *Apræcipe quod reddat*, lyeth not in *Bovata marisci*, 13. Ed. 3. fol. 3. nor *de felione terre*. Edw. 1. for the uncertainty: because a felon, which is a land, sometime containeth an acre, sometime halfe an acre, sometime more, and sometime lesse. It lyeth not of a garden, cottage, or croft. 14. *Arsif*. 13. 8. H. 63. 22. Ed. 4. 13. *de virgata terra*. 4^r. 43. 13. Ed. 3. *de fodina*, *de minera*, *de mercatu*. 13. E. 3. for they bee not in demesne: but in gaine, &c. Lastly, in the statute of Distresses in the Exchequer. anno 51. Hen. 3. I find these words. No man of religion, nor other, shall bee distreined by his beasts that gaine the land.

Galege, (*galica*) seemeth to come of the French, (*galloches*) which signifieth a certaine kinde of shoo worne by the Gaules in foule weather of old times. I find it used for some such imple-

ment. anno 4. Ed. 4. ca. 7. & anno 14. & 15. H. 8. cap. 9. where it is written plainly. *Galoches*.

Galingal (*cyperus*) is a medicinall herbe, the nature and diversitie whereof is expressed in *Gerards Herball*, lib. 1. cap. 22. The roote of this is mentioned for a drugge to be garbled. anno 1. Jaco. cap. 19.

Gallibalsens, were a kinde of coine forbidden by the statute. anno 3. H. 5. cap. 1.

Galloches. See *Galege*.

Gals (*Galle*) be a kind of hard fruit like a nutte, but rounder, growing of the tree called in Latine (*galla*.) The divers kinds and uses whereof Gerard expresseth in his *Herball*. lib. 3. cap. 34. This is a drugge to be garbled. anno 1. Jaco. cap. 19.

Gaol (*gaola*) commeth of the French (*Geole*. i. *caveola*) a cage for birds, but is metaphorically used for a prison. Thence commeth (*Geolier*) whom wee call *Gayler* or *Gaoler*.

Garbe (*garba*) commeth of the French (*garbe*, aliàs *gerbe*. i. *fascis*.) It signifieth with us, a bundle or sheafe of corne. *Charta de foresta*. cap. 7. and *garba sagittarum*, is a sheafe of arrowes. *Skene de verb. significat verbo*. *Garba*.

Garbling of bow-staves. anno 1. R. 3. cap. 11. is the sorting or culling out the good from the bad.

bad. As garbling of Spice, is nothing but to purifie it from the drosse and dust that is mixed with it. It may seeme to proceed from the Italian (*garbo*) that is, finenesse, neatnesse.

Gard (*Custodia*) commeth of the French (*garde*) being all of one signification. It signifieth in our common law, a custodie or care of defence: but hath divers applications: sometimes to those that attend upon the safetie of the Prince, called Yeomen of the Guard: sometime to such as have the education of children under age, or of an Idiot: sometime to a writ touching Wardship. Which writs are of three sorts: one called a right of guard or ward, in French, *droit de gard*, Fitzb. nat. br. fol. 139. The second is *ejectment de gard*. *Idem* fol. 139. L. The third, is *ravishment de gard*. *Idem* fol. 140. F. G. See *Gardein*, see *Ward*.

Gardein (*Custos*) commeth of the French (*Gardien*) and yet the German (*Warden*) is neere unto it. It signifieth generally him, that hath the charge or custodie of any person or thing: but most notoriously him, that hath the education or protection of such people, as are not of sufficient discretion, to guide themselves and their owne affaires, as Children and Idiots:

being indeede as largely extended, as both (*Tutor* and *Curator*) among the Civilians. For whereas *Tutor* is hee, that hath the government of a youth, untill hee come to fourteene yeares of age, and *Curator*, hee that hath the disposition and ordering of his substance afterward, untill he attaine to five and twenty yeares; or that hath the charge of a franticke person during his lunacie: the common Lawyers use but onely *Gardien* or *Gardian* for both these. And for the better understanding of our English Law in this thing, you must know, that as *tutor* is either *testamentarius*, or à *Prætorè datus ex lege Atilia*, or lastly, *legitimus*: so wee have three sorts of *Gardeines* in England: one ordained by the father in his last will, another appointed by the Judge afterward, the third cast upon the Minor by the law and custome of the land. Touching the first, a man having goods and chatels never so many, may appoint a *gardein* to the body or person of his child, by his last will and testament, untill he come to the age of fourteene yeares, and so the disposing or ordering of his substance, untill what time he thinketh meet, and that is most commonly to the age of 21. years. The same may he doe, if he have lands to never so great a value, so they

hold not *in capite* of the King, nor of any other Lord, by Knights service. And in the former case, if the father appoint no Gardein to his child, the Ordinarie may appoint one to order his moveables and chattels, untill the age of fourteen yeares: at which time hee may chuse his guardian, accordingly as by the civill Law hee may his *Curator*. For wee hold all one rule with the Civilians in this case: and that is, *Invito curator non datur*. And for his lands, if he hold any by copie of court rolle, commonly the Lord of the fee appointeth him a guardian, untill he come to the age of 14. yeares, and that is one, next of kind to the Minor of that side, that can hope for least profit by his death. If he hold by charter in socage, then the next of kind on that side by which the land commeth not is the guardian: and hereupon called *guardian in socage*. And that which is said here of socage seemeth to be true likewise in *petit seigneurie*, anno *viceesimo octavo Edwardi primi. statuto primo*. And the reason of this, *Fortescue* giveth in his booke, intituled, *A commendation of the politique lawes of England. cap. 44. viz.* because there might bee suspicion, if the next kinsman on that side by which the land descendeth, should have the custody

and education of the child, that for desire of his land, he might bee entised to worke him some mischief. Lastly, if a man dye seised of lands, holding by Knights service, leaving his heire in minoritie, that is, under 21. yeares: the Lord of the fee hath by law, the custody both of the heire and his land, untill he come to age. See the statute, anno 28. *Ed. prim. statut. prim.* And the reason of this, *Fortescue* likewise giveth, for that hee to whom by his tenure he oweth Knights service, when hee can performe it, is likeliest to traine him up in martiall and ingenious discipline, untill he be of abilitie. But *Polidore Virgil* in his Chronicle, lib. 16. saith, that this was *Novum vestigiali genus excogitatum*, to helpe Henry the third, being oppressed much with povertie, by reason hee received the kingdom much wasted by the wars of his ancestors: and therefore needing extraordinary helpe to uphold his estate: yet the 33. chapter of the Grand Custumary, maketh mention of this to have beene used by the *Normans*: and I thinke this the truer opinion. Here it is to be observed, whether land in Knights service hold *in capite*, or of another Lord, or some of the King, and some of another. If of the King, whether of the King alone or not, all is

one. For the King in this case is Guardian to the heires both person and land by his prerogative. *Stawford prerogat. cap. 1.* If hee hold of a common Lord, it is either of one alone, or more; if of one onely, then is hee Guardian of both person and lands; if of more, then the Lord of whom hee holdeth by the elder tenure, is Guardian of the person, and every one of the rest hath the custodie of the land holden of himselfe. If the prioritie of the tenure cannot be discerned, then is hee Guardian of the person, that first happeth him. Termes of the law. *Stawford ubi supra*, whom you may reade more at large: which Author fol. 19. maketh mention of *Gardeyn in feit*, and *Gardeyn in droit*: that is, in deed, and in law: I take the first to be him that hath purchas'd, or otherwise obtained the ward of the Lord of whom the land holdeth: The second, him that hath the right by his inheritance and seignorie, *Old nat. br. fol. 94.* Then is there *Gardeyn per cause de gard*, which is hee that hath the wardship of a Minor, because hee is Guardian of his Lord, being likewise in minoritie, *Stawford ubi supra. fol. 15.* Of this you may reade *Skene de verb. signif. verbo Varda*, by whom you may learne great affinitie, and yet some dif-

ference betweene the Law of Scotland, and ours in this point.

Guardia, is a word used among the Feudists, for the Latine (*Custodia*) and *Guardianus seu guardio dicitur ille, cui custodia commissae est, lib. Feudo. 1. titulo 2. & titulo 11.*

Gardeyn of the Spiritualities, (*Custos spiritualium, vel spiritualitatis*) is he to whom the spiritual jurisdiction of any Diocese is committed, during the vacancie of the See, *anno 25. H. 8. cap. 21.* And I take, that the *Gardeyn of the Spiritualities*, may be either *Guardein in law*, or *Jure Magistratus*, as the Arch-bishop is of any Dioces within his Province, or Guardian by delegation, as he whom the Arch-bishop or Vicar generall doth for the time depute.

Gardeyn of the peace, (*Custos pacis.*) See *Conservator of the peace.*

Gardeyn of the Cinque ports, (*Guardianus quinque portuum*) is a Magistrate that hath the jurisdiction of those Havens in the East part of *England*, which are commonly called the Cinque ports, that is, the five havens: who there hath all that jurisdiction, that the Admirall of *England* hath in places not exempt. The reason why one Magistrate should be assigned to these few Havens, seemeth

to bee, because they in respect of their situation, anciently required a more vigilant care, then other Havens, being in greater danger of invasion by our enemies, by reason that the Sea is narrower there then in any other place. *M. Camden* in his *Britannia*, pag. 238. saith, that the Romanes, after they had settled themselves and their Empire here in *England*, appointed a Magistrate, or Governour over those East parts, whom they termed *Comitem littoris Saxonici per Britanniam*, having another that did beare the same title on the opposite part of the Sea : whose office was to strengthen the Sea Coasts with Munition, against the outrages and robberies of the Barbarians. And farther signifieth his opinion, that this Warden of the Cinque ports, was first erected amongst us, in imitation of that Romane policie. See *Cinque ports*.

Gare, anno 31. Ed. 3. cap. 8. is a course wooll full of staring haire, as such as groweth about the pefill or shankes of the Sheepe.

Garnishment, commeth of the French (*Garnir*. i. *insinuer*.) It signifieth in our common law, a warning given to one for his appearance, and that for the better furnishing of the cause and

Court. For example, one is sued for the detinue of certaine Evidences or Charters, and saith, that the Evidences were delivered unto him, not onely by the Plaintiffe, but by another also : and therefore prayeth, that that other may be warned to pleade with the Plaintiffe, whether the said conditions bee performed, yea, or no. And in this petition hee is said to pray Garnishment. New booke of Entries, fol. 211. colum. 3. *Termes of the Law*. *Cromptons Jurisd.* fol. 211. which may be interpreted either warning of that other, or else furnishing of the Court with parties sufficient, throughly to determine the cause : because untill he appeare and joine, the Defendant (as *Fitzbergh* saith) is, as it were, out of the Court, *usur. br. fol. 106. G.* and the Court is not provided of all parties to the action. I am the bolder thus to interpret it, because I finde *Britton* in the same mind, cap. 28. where he saith, that contracts be somenaked, and *sans* garment, and some furnished, or to use the literall signification of his word, apparelled : but a naked Obligation giveth no action, but by common assent. And therefore it is necessary or needfull, that every Obligation be apparelled. And an Obligation ought to be apparelled with these five sorts
of

of garnements, &c. Howbeit, I reade it generally used for a warning in many places, and namely, in *Kitchin, fol. 6. Garniſher le court*, is to warne the Court. And reasonable garniſhment in the ſame place, is nothing but reasonable warning: and againe, *fol. 283.* and many other Authors alſo. But this may be well thought a Metonymie of the effect, becauſe by the warning of parties to the Court, the Court is furniſhed and adorned.

Garrantis. See Warrantis.

Garter (Garterium) commeth of the French (*Ja-tiere* or *Jartier*. i. *periscelis, fascia poplitaris.*) It ſigniſieth with us both in divers Statutes, and otherwiſe, one eſpeciall Garter, being the enſigne of a great and Noble Societie of Knights, called Knights of the Garter. And this is κατ' ἐξοχήν as *Poeta* among the *Gracians*, was *Homer*, among the *Romans*, *Virgill*, becauſe they were of all others the moſt excellent. This high order (as appeareth by *M. Camden, pag. 211.*) and many others, was firſt inſtituted by that famous King, *Edward* the third, upon good ſucceſſe in a ſkirmiſh, wherein the Kings Garter I know not upon what occaſion) was uſed for a token. I know that *Polydore Virgill* caſteth in another ſuſpicion of the originall:

But his grounds, by his owne confeſſion, grew from the Vulgar opinion: yet as it is, I will mention it as I have read it. *Edward* the third, King of *England*, after hee had obtained many great victories: King *John* of *France*, King *James* of *Scotland*, being both priſoners in the Tower of *London* at one time; and King *Henry* of *Caſtile*, the Baſtard expulſed, and *Don Pedro* reſtored by the Prince of *Wales*, did upon no weightie occaſion firſt erect this order in *Anno* 1350. viz. Hee dancing with the Queene, and other Ladies of the Court, tooke up a Garter that happened to fall from one of them: whereat ſome of the Lords ſmiling, the King ſaid unto them, that ere it were long, hee would make that Garter to bee of high reputation, and ſhortly after inſtituted this order of the Blew Garter, which every one of the order is bound daily to weare, being richly decked with Gold and precious ſtones, and having theſe words written, or wrought upon it: *Honi ſoit qui mal y pence*: which is thus commonly interpreted: Evill come to him that evill thinketh. But I thinke it might be better thus: Shame take him that thinketh evil. See Knights of the Garter. *M. Ferne* in his glory of generoſitie agreeth with *M. Camden*, and expreſſier

setteth downe the victories, whence this order was occasioned: whatsoever cause of beginning it had, the order is inferior to none in the world, consisting of 26. martiall and heroicall Nobles, whereof the King of England is the chiefe, and the rest bee either Nobles of the Realme, or Princes of other Countries, friends and confederates with this Realm; the Honour being such, as Emperours and Kings of other Nations, have desired, and thankfully accepted it: he that will read more of this, let him repaire to *M. Camden*, and *Polidore*, and *M. Ferne*, fol. 120. *ubi supra*.

The Ceremonies of the chapter proceeding to election, of the investitures and robes: of his installation, of his vow, with all such other Observances; see in *M. Segars* new booke, intituled *Honour militarie and civill*, lib. 2. cap. 9. fol. 65. Garter also signifieth the principall King at Armes, among our English Heralds created by King *Henry the fifth*, *Stow*. pag. 584.

Garthman, anno 13. R. 2. stat. 1. ca. 19. & anno 17. ejusd. ca. 9.

Gavellet, is a speciall and ancient kind of *Cessavit* used in *Kent*, where the custome of *Gavell* kind continueth: whereby the tenant shall forfeit his Lands and tenements to the Lord of whom hee holdeth, if hee withdraw from

him his due rents and services. The new *Expounder of Law Termes*, whom reade more at large: I reade this word, anno 10. *Edw. 2. cap. unico*. where it appeareth to be a writ used in the *Hustings* at *London*. And I find by *Fleta*, that it is used in other liberties, as the *Hustings* of *Winchester*, *Lincolne*, *Yorke*, and the *Cinque ports*, lib. 2. cap. 55. in principio.

Gavelkind, is, by *M. Lamberd* in his exposition of Saxon words, verbo. *Terra ex scripto*, compounded of three Saxon words, *give*, *cal*, *cin*: *omnibus cognatione proximis data*. But *M. Verstegan* in his restitution of his decayed intelligence, cap. 3. calleth it (*Gavelkind*) *quasi*, give all kinde, that is, give to each childe his part. It signifieth in our common Law, a custome, whereby the Lands of the Father is equally divided at his death amongst all his sons, or the land of the Brother equally divided among the Brethren, if hee have no issue of his owne, *Kitch. fo. 102*. This custome is said to bee of force in divers places of England, but especially in *Kent*, as the said *Anthour* reporteth; shewing also the cause why *Kentish* men rather use this custome, than any other Province. viz. because it was a composition made betweene the Conquerour and them, after all England

England beside was conquered, that they should enjoy their ancient customes, whereof this was one. For *M. Camden* in his *Britannia*, pag. 239. saith in expresse words thus: *Cantiani eâ lege Gallicano Normanno se dediderunt, ut patrias consuetudines illas retinerent, illamq; inprimis quam Gavelkind nominant. Hac terra quæ e nomine censetur, liberis masculis æquis portionibus dividuntur: vel fœminis, si masculi non fuerint: adding more worth the noting, viz. Hanc hereditatem, cum quintum decimum annum attigerint, adent, & sine Domini consensu, civilibus, vel dando, vel vendendo, alienare licet. Hac filii parentibus sunt damptati in id genus fundis succedunt, &c.* This custome in divers Gentlemenslands, was altered at their owne petition, by Act of Parliament. anno 31. H. 8. cap. 3. But it appeareth by 18. H. 6. cap. pri. that in those dayes there were not above thirty or fourty persons in *Kent*, that held by any other tenure. See the new Termes, *Gavellet*, and *Gavelkind*.

Gauger, (*gaugator*) seemeth to come of the French (*Gawbir. i. in gyrum torquere.*) It signifieth with us an Officer of the Kings appointed to examine all Tunnes, Hogsheds, Pipes, barrells, and tercians of wine, oyle, honey, butter, and to give them a

marke of allowance, before they bee sold in any place. And because this marke is a circle made with an iron Instrument for that purpose: It seemeth that from thence hee taketh his name. Of this Office you may finde many Statutes: the first whereof is, anno 27. Ed. 3. commonly called the statute of provision, or *Parveyours*, cap. 8.

Geld, signifieth with the Saxons, pecunia vel tributum. See *Gylde*.

Genets, alias *Jenets*. See *Farre*.

Gentleman, (*generosus*) seemeth to bee made of two words, the one French, (*gentil. i. honestus, vel bonesto loco natus:*) the other Saxon (*Mon*) as if you would say, a man well borne. The *Italian* followeth the very word, calling those (*gentil homini*) whom wee call *Gentlemen*. The *Spaniard* keepeth the meaning, calling him *Hidalgo*, or *Hijo d'algo*, that is, the sonne of some man, or of a man of reckoning. The Frenchmen call him also *gentil homme*: so that Gentlemen be those, whom their blood and race doth make noble and knowne. *εὐγενής* in Greeke, in Latine, *Nobis*. *Smith de Repub. Anglor. lib. 1. cap. 20.* under this name are all comprised that are above Yeomen: so that Noblemen be truly called Gentlemen.

But by the course and custome of England, Nobilitie is either major or minor: the greater contains all titles and degrees from Knights upward: the lesser all from Barons downeward. *Smith ubi supra, cap. 21.* The reason of the name, as I take it, groweth from this, that they observe *gentilitatem suam*, that is, the race and propagation of their blood, by giving of armes, which the common sort neither doth, nor may doe. For by the Coate that a Gentleman giveth, he is known to bee, or not to bee descended from those of his name, that lived many hundred yeeres since. Howbeit, that this is neglected, where substance faileth to maintaine the countenance. For many of great birth fall to poverty, whose posteritie living and labouring in want, have small encouragement, to looke after the titles of their Auncestors, and so in time slippe into the number of the ignoble sort: yet if they by their vertue or fortune, can againe advance themselves to sufficient ability, the Herald out of his observations can restore them to the Coate of their Progenitors, and now and then helpe them to one, that their Auncestors never ware. *Gentiles homines*, see in *Tiraquel. de Nobilitate, cap. 2. pag. 53.* *Tully* in his *Tropicke* thus saith of this matter. *Gentiles sunt,*

qui inter se eodem sunt nomine ab ingenio oriundi, quorum majorum nemo servitutem servivit, qui capite non sunt diminuti. And in the first booke of his *Tusc. questions*, hee calleth *Tullum Hostilium*, one of the Kings of Rome, *gentilem suum.*

Generall Issue. vid. Issue.

Geste & fama, is a writ. *Lamb. Eirenarcha. lib. 4. ca. 14. pa. 531.*

Gygge milles, were for the Fulling of Woollen Cloth and forbidden, *Anno 5. Edward 6. cap. 22.*

Gild: alias *Geld* (*gildare*) cometh from the Saxon word (*Gildan*) i. *solvere*, *Lamb.* in his explication of Saxon words saith, *verbo, Contubernaliu.* It is used as a verbe, and as a substantive also, and at it is a substantive, it is latinized *Gilda*, and signifieth a Tribute, or sometime an amercement, or thirdly, a Fraternitie or Company, combined together by orders and Lawes made among themselves by the Princes license. *M. Camden* citeth many antiquities, by which it appeareth to signifie a tribute or taxe, as *pa. 135. 139. 159. 168. 178. M. Crompton* in his *Jurisdictions, fol. 191.* sheweth it to be an amercement, as *footgeld*, and *fol. 197.* hee interpreteth it to bee a prestation within the Forrest, in these words: To be quit of all manner of *Gelds*, is to be discharged of all manner

manner of prestations to bee made for gathering of sheaves of Corne, of Lambe, and of Wooll to the use of *Foresters*. Againe, *M. Camden*, pag. 349. dividing Suffolke into three parts, calleth the first *Gildable*, because tribute is thence gathered; the second *libertatem S. Edmundi*: The third *libertatem S. Etheldrede*. And the Statutes: anno 27. Ed. 3. stat. 2. cap. 13. & anno 11. H. 7. ca. 9. use *Gildable* in the same sense, and so doth the Statute, anno 27. Hen. 8. ca. 26. From this *M. Lamberd*, *ubi supra*, is likewise perswaded, that the common word (*Gild*) or (*Gildhall*) doth proceed, being a Fraternity or Communaltie of men gathered into one combination, supporting their common charge by a mutuall contribution: And in the Register originall, fol. 219. b. I reade *Gildani mercatoriam*, that is the *Gilde Merchant*, which I have heard to bee a certaine liberty or privilege belonging to Merchants, whereby they are enabled to hold certaine pleses of Land within their owne Precincts. This word (*Gildes*) or (*Guildes*) is so used anno 37. Ed. 3. cap. 51. & anno 15. R. 2. cap. 5. And *Gildhalda Tentonicorum*, is used for the fraternitie of easterling Merchants in London, called the *Stilyard*, anno 22. Hen. 8. cap. cclxxv.

Ginger (*Zinziber*) is a spice well knowne, being the roote of a plant that groweth in hot countries, as *Spaine*, *Barbary*, &c. The true forme whereof you have expressed in *Gerards Herball*, l. 1. cap. 38. This is a spice whose root is to bee garbled, anno 1. *Jacob*. cap. 19.

Gumy peper (*piper de Guinea*) is otherwise called *Indi pepper*, of the place whence it commeth. The nature and farther description whereof you have in *Gerards Herball*. l. 2. cap. 66. This you have mentioned among druggs and spices to be garbled, in the Statute. i. *Jaco*: cap. 19.

Gisarms: anno 13. Ed. 1. stat. 3. cap. 6. is a kind of weapon. *Fleta* writeth it *Sisarmes*. l. 1. cap. 24. & item quod quilibet.

Glawnce Ores, *Plowden casu Mines* fol. 320. b.

Glanvill was a learned Lawyer, that was chiefe Justice in *Henry* the seconds dayes, and writ a Booke of the common Lawes of *England*, which is the ancientest of any extant touching that subject. *Stawf. prerog.* cap. prim. fol. 5. Hee was then called in Latine *Ranulphus de Glanvilla*. Hee dyed in *Richard* the first his dayes at the Citie of *Acres* in the coast of *Jury*, being with him in his voyage to the Holy Land. *Plowden. casu. Stowel. folio*, 368. b.

Goe, is used sometime in a speciall signification in our common Law : as to goe to God, is to bee dismissed the Court. *Brooke titulo. Fayer de records, num. 1.* Goe forward, seemeth also to be a signe given by a Judge to the Sergeant or Counsellor, pleading the cause of his Clyent, that his cause is not good. For when hee standeth upon a point of Law, and heareth those words of the Judges mouth, he taketh understanding, that hee loseth the action. *Smith de Repub. Anglo lib. 2. cap. 13.* To go without day, is as much as to be dismissed the Court. *Kitchin, fol. 193.*

Good behavior. See *Good abearing.*

Good abearing, (*Bonus gestus*) is, by an especiall signification, an exact carriage or behaviour of a subject, toward the King and his liege people, whereunto men upon their evill course of life, or loose demeanure are sometimes bound. For as *M. Lamberd* in his *Eirenarcha, lib. 2. cap. 2.* saith : hee that is bound to this, is more strictly bound than to the peace : because, where the peace is not broken without an affray, or batterie, or such like : this surety (*de bono gestu*) may bee forfeited by the number of a mans company, or by his or their weapons or harnesse : Whereof see more in that learned Writer in the same chapter, as also in *M. Cromptons*

Justice of peace, fol. 119.b. 120. 121. 122. 123. 124. 125. 126. 127.

Good cuntry, (*Bona patria*) is an Assise, or Jury of Country men or good neighbors : *Skene de verbo signif. verbo, Bona patria.*

Graffer (*grafarium*) signifieth as much as a notarie or Scrivener. It commeth of the French (*greffier. i. scriba, actuarium.*) This word is used in the statute, *an. 5. H. 8. c. 1.*

Graines (*grana paradisi, alias Cardamomum*) is a spice medicinal and wholefome, whereof you may see divers kindes in *Gerards Herball, l. 3. c. 148.* These are comprised among merchandise that be to be garbled. *an. 1. l. c. 19.*

Grand assise. See *Assise*, and *Magna assisa.*

Grand Cape. See *Cape* and *Attachment.*

Grand Sergeanty. See *Ghyvalrie*, and *Seargeanty.*

Grand distresse : (*Magna distractio*) is a distresse taken of all the lands, and goods, that a man hath within the Countie or Bayliwicke, whence hee is to be distrained : *Fleta lib. 2. cap. 69. §. penult.* See *Distresse.* This word is used *anno 51. H. 3. cap. 9.* This falleth out when the Defendant hath beene attached, and yet appeareth not upon his attachment; or when hee appeareth and afterward makes default. For then the Sheriffe is commanded to distrain the Defendant, by all his goods and

and cattels, and to answer the King the issues of his Lands.

Grange (*grangia*) is a house or building, not onely where Corne is laid up, as Barnes be, but also where there bee stables for horses, stalles for oxen, and other cattell, styes for hogges; and other things necessary for husbandry, *Lindwood ca. item omnes de judiciis verbo, Grangia, in glossa.*

Grant (*Concessio, grantum*) *Glanville*, signifieth specially in our common Law, a gift in writing of such a thing, as cannot aptly bee passed or conveyed by word onely: as Rent, Reverfions, Services, Advowfens in grosse, Common in grosse, Villein in grosse, Tithes, &c. or made by such persons, as cannot give but by deed, as the King, and all bodies politicke: which differences be often in speech neglected, and then is it taken generally for every gift whatsoever, made of any thing by any person, and hee that granteth it, is named the Grantour, and hee to whom it is made, the Grantee, *West. parte 1. symbol. lib. 2. Sect. 334.* A thing is said to lie in grant, which cannot be assigned without deed, *Coke, li. 3. Lincolns Coll. case, fo. 63. a.*

Great men, are sometimes understood of the Laitie of the higher house of Parliament, as *an. 43. Ed. 3. ca. 2. & an. 8. R. 2. in proam.* and sometime of the Knights, &c.

of the lower house, as *an. 2. R. 2. stat. 2. in principio.*

Gree, commeth of the French (*Gr. i. sententia, beneplacitum.*) It signifieth in our common Law, contentment or good liking: as to make gree to the parties, is to satisfie them for an offence done, *anno 1. R. 2. ca. 15.*

Greachbreach, is breaking of the peace. *Saxon* in the description of England, *ca. 11. v. Rastal. titulo Exposition of words.* The new expounder of Law Termes writeth it (*Griechbreach*) and giveth it the same signification. See *Greve.*

Greene bewee, is all one with vert, *Manwood parte 2. of his forest lawes, ca. 6. nu. 5.* See *Vert.*

Greene waxe, seemeth to bee used for estreats delivered to Sheriffs out of the Exchequer, under the Seale of that Court, to be levied in the Countie, *anno 42. Ed. 3. ca. 9. & anno 7. H. 4. ca. 3.* See *Forein apposer.*

Greve (*propositus*) is a word of power and authoritie, signifying as much as *Dominus*, or *praefectus*. *Lamberd in his Exposition of Saxon words, verbo Praefectus.* where hee seemeth to make it all one with (*Reve*) as I thinke undoubtedly it is: The Saxon word is *Gerefa*, whereof wee have divers words compounded, as *Shyreve*, *Portgreeve*, &c. which were wont of the Saxons to bee written *Seygre-fesa*:

refa: *Portgerefā*. See *Shyreewe* and *Portgreve*. See *Roger Hoveden parte poster. suorum annal. fol. 346. b.* where hee saith thus: *Greve dicitur, ideo quod jure debeat grithē. i. pacem ex illis facere, qui patria inferunt Vē. i. miseriam vel malum.*

Grithbreach, is a breach of peace. For *Grith* is a word of the old *Angles*, signifying peace. *Roger Hoveden parte poste. suorum annal. fo. 346. b.* See *Greacbbreach*.

Grills, anno 22. *Ed. 2. ca. 2.*

Grocers, be Merchants that ingrosse all Merchandize vendible, anno 37. *Ed. 3. ca. 5.*

Groome, anno 33. *H. 8. cap. 10. (Valletus)* is the name of a servant that serveth in some inferiour place. *M. Verslegan in his Restitution of decayed intelligence* saith, that hee findeth it to have beene in times past a name for youths, who albeit they served, yet were they inferiour to men servants, and were sometimes used to be sent on foot of errands, serving in such manner as Lackeyes doe now.

Growme, an. 43. *E. 3. ca. 10.* seemeth to be an engine to stretch Woollen cloth withall after it is woven.

Gnydage (Gnydagium) is that which is given for safe conduct through a strange territorie, *Cassanens de consuetud. Burgun. pag. 119.* whose words be these: *Est Gnidagium quod datur alicui, ut*

tutò conducatur per loca alierum.

Guyldē. See *Gyld*.

Guyldāda Teutonicorum. See *Gild*.

Gule of August (Gula Augusti) anno 27. *Ed. 3. stat. 3. cap. unico Fitzb. nat. br. fol. 62. I. aliās Goule de August. Plowd. casu Mimes, fo. 316. b.* is the very day of Saint Peter ad vincula, which was wont, and is still within the limits of the Roman Church, celebrated upon the very Kalends of *August*. Why it should be called the *Gule of August*, I cannot otherwise conjecture, but that it commeth of the Latine (*gula*) or the French (*gueule*) the throat. The reason of my conjecture is in *Durands rationali divinorum. l. 7. ca. de festo Sancti Petri ad vincula.* who saith that one *Quirinus a Tribune*, having a Daughter that had a disease in her throat, went to *Alexander* then Pope of Rome, the sixth from Saint Peter, and desired of him to borrow, or see the chaines that Saint Peter was chained with under Nero: which request obtained, his said Daughter kissing the said chaine, was cured of her disease, and *Quirinus* with his family was baptized. *Tunc dictus Alexander papa (saith Durand) hoc festum in Kalendis Augusti celebrandum instituit, & in honorem beati Petri Ecclesiam in urbe fabricavit, ubi vincula ipsa reposuit, & ad*

vincula nominavit; et Kalendis Augusti, dedicavit. In qua festiuitate, populum illum ipsa vincula benediculatur. So that this day being before called onely the Kalends of August, was vpon this occasion afterward termed indifferently, either of the instrument that wrought this miracle; *S. Peters day ad vincula*, or of that part of the maiden whereon the miracle was wrought, the *Gule* of August.

Gulwit seemeth to be compounded of *Gul*, i. *noxa*, and *wit*; which is sayd by some skilful men to bee an ancient termination of the words in the Saxon tongue, signifying nothing in it selfe but as *dam* or *hood*, and such like bee in these English words, Christendom, & Manhood, or such others. Others say, and it is true, that *wit* signifieth blame or reprehension. *Gulwit* (as *Saxon* in his Description of England, ca. 11, doth interpret it) is an amends for trespassse.

Gust (*Hospes*) is used by *Bracton* for a stranger or guest that lodgeth with us the second night: *lib. 3, tractat 2, ca. 10*. In the laws of Saint *Edward*, set forth by Master *Lambert*, num. 27, it is written *Gest*. Of this see more in *Uncothe*.

Gumme (*gummi*) is a certaine clammy or tough liquor, that in manner of a sweaty excrement is

suerh out of trees, and is hardned by the Sunne. Of these there be diuers sorts brought over seas, that be drugs to be garbled; as appeareth by the statute, *Anno 1 Jac. ca. 19*.

Gutter tile, alias corner Tyle, is a tyle made three corner wise, especially to bee layd in Gutters, or at the corners of tyled houses; which you shall often see upon Dove-houses, at the foure corners of their roofes; *anno 17 Edm. 4. ca. 4*.

H A

Habeas corpus is a writ, the which a man indited of some trespasse before Justices of peace, or in a court of any franchise, and upon his apprehension being layd in prison for the same, may have out of the Kings bench, therby to remoove himselfe thither at his owne costs, and to answer the cause there, &c. *Fitz. nat. brev. fo. 250 b*. And the order is in this case, first to procure a *Certiorari* out of the Chancery, directed to the said Justices, for the removing of the Inditement into the Kings Bench, and upon that, to procure this writ to the Sheriffe, for the causing of his body to be brought at a day: *Reg. jud. fo. 81*, where you shal find diuers cases wherein this writ is used.

Habeas corpora is a writ that lieth

lieth for the bringing in of a Iurie, or so many of them, as refuse to come upon the (*venire facias*) for the triall of a cause brought to issue, *Old nat. brev. fol. 157.* See great diversitie of this writ, in the table of the Register Iudiciall, *verbo, habens corpora;* and the new booke of Entries, *verbo eodam.*

Habendum, is a word of forme in a deed of conveyance, to the true understanding whereof, you must know, that in every deed of conveyance, there be two principall parts, the Premises, and the *Habendum*. The office of the Premises is, to expresse the name of the Grantour, the Grantee, and the thing granted, or to be granted. The office of the (*habendum*) is to limit the estate, so that the generall implication of the estate, which by construction of law passeth in the Premises, is by the (*habendum*) controlled and qualified. As in a lease to two persons, the (*habendum*) to one for life, the Remainder to the other for life, altereth the generall implication of the joynt tenancie in the free-hold, which should passe by the Premises, if the (*habendum*) were not. *Coke, vol. 2. Bucklers case. fol. 55.* See *Use.*

Habere facias seisinam, is a writ Iudicial, which lieth, where a man hath recovered lands in

the Kings Court, directed to the Sheriffe, and commanding him to give him seisin of the land recovered, *Old nat. brev. fol. 154. Termes of the Law*: whereof see great diversitie also in the table of the Register Iudiciall, *verbo. Habere facias seisinam.* This writ is issuing sometime out of the Records of a fine executoric, directed to the Sheriffe of the Countie, where the land lieth, and commanding him to give to the Cognizee or his heires, seisin of the land, whereof the fine is levied; which writ lyeth within the yeare after the fine, or Iudgement upon a (*Scire facias*) and may be made in divers formes, *West. parte 2. symb. titulo Fines. Sect. 136.* There is also a writ called *Habere facias seisinam, ubi Rex habuit annum, diem, & vassum*, which is for the redelivery of lands to the Lord of the Fee, after the King hath taken his due of his lands, that was convicted of felonie, *Register origin. fol. 165.*

Habere facias visum, is a writ that lieth in divers cases, where view is to be taken of the lands or tenements in question. See *Fitz. nat. br. in Indice. verbo (View)* See *Braeton li. 5. tract. 3. ca. 8. & lib. 5. parte 2. ca. 11.* See *view.* See the Register Iudiciall, *fo. 1, 26, 28, 45, 49, 52.*

Haberjells (*Hauberitem pan-*

nuu) magn. chart. ca. 25. & *papilla oculi. parte. 5. ca. 22.*

Hambles, is the plurall of the French (*hable*) signifying as much as a porte or haven of the sea, whence ships doe set forth into other countries; and whither they doe arrive, when they returne from their voyage. This word is used, anno 27. Hen. 6. cap. 3.

Herede deliberando alii qui habet custodiam terre, is a writ directed to the Sheriffe, willing him to command one having the body of him, that is ward to another, to deliver him to him, whose ward hee is by reason of his land. *Regist. originall. fol. 161. b.*

Herede abducto, is a writ that lyeth for the Lord; who having the wardship of his tenent under age by right, cannot come by his body, for that hee is conveyed away by another. *Old. nat. br. fol. 93.* See *Ravishment de Gand*, and *Herede rapti*, in *Regist. orig. fol. 163.*

Heretico comburendo, is a writ that lyeth against him, that is an heretike, viz. that having beene once convinced of heresie by his Bishop, and having abjured it, afterward falleth into it againe, or into some other, and is thereupon committed to the secular power. *Fitz. nat. br. fol. 269.*

Haga, is used as a kind of la-

tine word for a house. I find in an ancient booke sometime belonging to the abbey of Saint *Augustines* in *Canterbury*, that King *Stephen* sent his writ to the Sheriffe and Iustices of *Kent*, in this manner. *Stephanus Rex Anglorum vicecomiti & Iusticiariis de Kent salutem. precipio quod faciatis habere ecclesia sancti Augustini & monachis bagam suam quam Gosceoldus eis dedit, ita bene & in pace & iuste & quiete & libere, sicut eam eis dedit in morte sua coram legalibus testibus, &c.*

Hagbut, See *Haque* and *Haquebut*.

Haye boote, seemeth to be compounded of (*Haye. i. Sepes*) and (*Bote. i. compensatio*) The former is french, and the second is Saxon. And although it doe fall out sometime, that our words be so compounded: yet it is rare. Wherefore it may be thought peradventure to come as well from (*Hag*) and (*Boote*) which be both Saxon words. It is used in our common law for a permission to take thornes and freeth to make or repaire hedges.

Halfe haque, See *Haque*.

Halfe merke (*dimidia marka*) seemeth to signifie a noble. *Fitz. nat. br. fol. 5.* where hee saith that in case a writ of right bee brought and the seisin of the Demaundant, or his ancestor alleaged, the seisin is not traversable by

the Defendant, but hee may tender or proferre the halfe marke for the enquire of this seisin, which is as much to say in playner termes, that the Defendant shall not be admitted to denie, that the Demandant, or his Ancestour was seised of the Land in question, and to prove his deniall, but that hee shall be admitted to tender halfe a Marke in money, to have an enquiry made, whether the Demandant, &c. were so seised or not. And in this signification I reade the same words in the old English *natura breuium*, fol. 26. b. viz. Know yee that in a Writ of right of *Adiuvzen* brought by the King, the Defendant shall not proferre the halfe Marke, no Judgement shall be given against the King, &c. Whereof *Fitzl. ubi supra*. M. giveth the reason because in the Kings case, the Defendant shall be permitted to traverse the seisin by licence obtained of the Kings Sergeant. To this effect, See *Fitz. nat. br. fol. 31. C.D.E.*

Halfe sea'e, is used in the Chauncery for the sealing of Commissions unto Delegates, appointed upon any appeale in Ecclesiasticall or Marine causes, *an. 8. Eliz. cap. 5.*

Halfe tongue. See *Adiuvzen* tongue.

Halymerie, alias, *Halgermer*, is

a Court Baron. *Manwood parte prima* of his Forest Lawes, pag. xii. and the Etymologie is the meeting of the Tenants of one Hall or Mannor. *M. Gavius Preface to his Reading*, which for the esteeme thereof, is by copies spread into many mens hands.

Hallage, is a fee due for clothes brought for sale to *Blackwell hall* in London. *Coke*, vol. 6. fol. 62. b.

Hamlet (*Hamletum*) is a diminutive of (*Ham*) which signifieth *habitationem*. *Cambden. Brit. pag. 149. & 354.* The French (*hameau*, i. *villatus*) is also thereunto it. *Kitchin* hath *Hamlet* in the same sense, fol. 215. who also useth *hampsel* for an old house or cottage decayed, fol. 103. *Hamlet* (as *Stow* useth it in *Ed. 3.*) seemeth to be the seare of a Freeholder. For there he saith, that the said King bestowed two maners and nine hamlets of land upon the monastery of *Westminster*, for the keeping of yearly obits for his wife Queene *Eleanor* deceased.

Hameling of dogges, or *hambling of dogges*, is all one with the expeditating of *Fogges*. *Manwood parte prima* of his Forest lawes. pag. 212. & *parte 2. cap. 16. num. 5.* where hee saith, that this is the ancient terme that Foresters used for that matter; whence this word might be

bee drawne, I dare not resolve : but it is not improbable, that *humiling is quasi, humbalding*, that is, keeping at home, which is done by paring their feet so, as they cannot take any great delight in running abroad. See *Expediunt*.

Hampfell. See *Hamlet*.

Hamsoken, see *Homeſoken*. *M. Skene de verb. signific.* writeth it *Haimſoken*; and deriveth it from (*Haim*) a German word, signifying a house or dwelling, and (*Suchen*) that is to seeke, search, or pursue. It is used in Scotland for the crime of him, that violently, and contrary to the Kings peace, assaulteth a man in his own house : which. (as hee saith) is punishable equally with ravishing of a woman, *significat quietantiam misericordie intrationis in alicuiam domum vi & injuste*. *Pleta. lib. pri. cap. 47.* See *Homeſoken*.

Hand in and Hand out, anno 17. Ed. 4. cap. 2. is the name of an unlawful game.

Hand full, is foure inches by the standard. anno 33. H. 8. ca. 5. &c.

Hangwit alias (*Hangwit*) or (*Hengwit*) cometh of the Saxon words (*Hangen*, i. pendere) and (*wit*) whereof read in *Guth-wit* : *Rastall* in the title, Exposition of words saith, it is a liberty graunted unto a man, whereby

hee is quit of a felon or theefe hanged without judgement, or escaped out of custody. I read it interpreted, *nullus pro homine injuste suspensio*. Or whether it may be a liberty, whereby a Lord challengeth the forfeiture due for him, that fordoeth himselfe within his fee or not, let the Reader consider. See *Blood-wit*.

Hanper (*hanperium*) *Hanper* of the *Chambrerie*. anno 10. R. 2. cap. prim. seemeth to signifie as *fiscus* originally doth in Latine. See *Clerke of the Hanper*.

Hanse (as *Ortelius* in the Index of his Additament to his *Theater*, verb. *Anstietici*. saith.) is an old *Gothisch* word; where hee sheweth not the interpretation. It signifieth a certaine societie of Merchants, combined together for the good usage and safe passage of Merchandize from kingdome to kingdome. This societie was, and (in part) yet is, endued with many large priviledges of Princes, respectively within their territories. It had foure principall seats, or staples: where the *Almaine* or Dutch Merchants being the Erectours of this societie, had an especiall house, one of which was here in *London*, called *Gild-hallda Tontonicorum*, or in our common language, the *Steward*. Of this you may reade more in the

the place of *Ortelius* above mentioned.

Happe commeth of the French *happer*, i. *rapio*, cum quadam velocitate capio : and the French seemeth to come from the Greeke *απαλα*. It signifieth in our common law the same thing, as to hap the possession of a deed poll. *Litil. fo. 8.*

Haque, is a hand-gun of about three quarters of a yard long, anno 33 *Henr. 8. ca. 6.* & *an. 2 et 3 E. 6. ca. 14.* There is also the halfe-haque or demy haque. See *Haquebut.*

Haquebut is that piece of artillery or gun which wee otherwise call an harquebuse : beeing both French words. anno 2 & 3 *Ed. 6. ca. 14.* & anno 4 & 5 *Phil. & Mar. ca. 2.*

Hariot, aliàs *beriot* (*beriotum*) in the Saxon *heregeat*, a little altered, which is drawne from *here*, i. *exercitus*. And a heriot in our Saxons time signified a tribute given to the Lord, for his better preparation toward Warre : *Lambert* in his Explication of Saxon words, *verbo Hereotum*. The name is still retained, but the use altered : for whereas by Master *Lambert*'s opinion, *ubi supra*, it did signifie so much as reliefe doth now with us, now it is taken for the best chatell that a tenent hath at the houre of his death, due unto the Lord by cu-

stome, bee it horse, ox, cattell or any such like. Master *Kitchin* distinguisheth betweene *Heriot* service and *Heriot* custome, fol. 133 & 134 : For interpretation whereof, you shall finde these words in *Brooke*, titulo *Hariot*, num. 5. *Hariot* after the death of the tenent for life is *Hariot* custome. For *Hariot* service is after the death of tenent in fee simple. The new expounder of the Law *Termes* sayth, That *Hariot* service (in some mans opinion) is often expressed in a mans graunt or deed, that he holdeth by such service, to pay *Hariot* at the time of his death, that holdeth in fee simple. *Hariot* custome is, where *hariots* have been payd time out of mind, by Custome. And this may be after the death of the tenent for life. See *Plowden*, fol. 95 b. 69, a, b. *Bracton* sayth, that *Heriotum est quasi relevium*, lib. 2, cap. 36. See *Reliefe*. But *Britton ca. 69* sayth, That *Heriot* is a reward made by the death of a tenent, to any lord, of the best beast found in the possession of the tenent deceased, or of some other, according to the ordinance or assignement of the party deceased, to the use of his Lord : which reward toucheth not the Lord at all, nor the heire, nor his inheritance, neither hath any comparison to a *Reliefe* : for it proceedeth rather of grace or good-

good will then of right, and rather from villeins then free men. See *Dyer fol. 199. nu. 58.* to the same effect. This is Scotland is called *Herrezelda*, compounded of (*herr. i. dominus, beru.*) and (*zeild i. gift*) *Shene da verbo. signific. verbo Herrezelda.*

Hart, is a Sagge of five yeares old compleat, *Munwood parte 2. of his forest. Lawes, cap. 4. num. 5.* which hee hath out of *Budeus de philologia li. 2.* And if the King or Queene do hunt him, and hee escape away alive, then afterward hee is called a *Hart* royall. And if the Beast by the Kings or Queenes hunting be chased out of the Forest, and so escape; Proclamation is commonly made in the places thereabout, that in regard of the pastime, that the Beast hath shewed to the King or Queen, none shall hurt him, or hinder him from returning to the Forest, and then is hee a *Hart* royall proclaimed. *Idem. eodem.*

Hauberk, commeth of the French (*Haubert i. lorica.* whereupon, hee that holdeth land in *France*, by finding a Coate or Shirt of Maile, and to be ready with it, when hee shall be called, is said to have *Hauberticum feudum*; whereof *Hotoman* writeth thus: *Hauberticum feudum gallica lingua vulgo dicitur pro (loricatum) i. datum vasallo eo conditi-*

one, ut ad edictum lorica m sive capthaclus presto sit. Nam ut lorica latinis proprie & minus usitate est tegmen de loro factum, quo majores in bello utebantur, quem admodum Servius Honoratus scribit in libro Aeneidum 11. frequentissime autem pro aenea armatura integra usurpatur: sic apud Gallos Haubert proprie lorica annulis contextam significat, quam vulgus Cotte de maille appellat. Hec Hot. in verbis feudal. verbo Hauberticum feudum. Hauberk with our Auncelsters seemeth to signifie, as in France, a Shirt or Coat of Maile, and so it seemeth to be used, anno 13. Ed. pri. stat. 3. ca. 6. Though in these dayes the word is otherwise written, as (Halbert) and signifieth a weapon well enough knowne.

Haward, alias *Hayward*, seemeth to be compounded of two French words (*Hay. i. Sepes*) and (*Garde. i. Custodia.*) It signifieth with us, one that keepeth the common Herd of the towne: and the reason may be, because one part of his office is to looke that they neither breake, nor crop the hedges of inclosed grounds. It may likewise come from the German (*herd. i. armentum*) and (*berwarren. i. custodire.*) Hee is a sworne Officer in the Lords Court: and the forme of his oath you may see in *Kitchin, fol. 46.*

Hawkers, be certaine deceitfull fellowes, that goe from place to place, buying and selling, Brasse, Pewter, and other merchandise, that ought to be uttered in open Market. The appellation seemeth to grow from their uncertaine wandring, like those that with Hawkes seeke their Game, where they can find it. You find the word, *anno 25. H. 8. cap. 6. & anno 33. ejusdem. cap. quarto.*

Headborow, is compounded of two words (*Heofod. i. caput.*) and (*Bor. he. i. pignus*) It signifieth him, that is chiefe of the frankpledge: and him that had the principall government of them within his owne pledge. And as he was called *Headborow*, so was he also called *Burowhead*, *Bursbolder*, *Thirdborow*, *Tithing man*, *Chiefepledge*, or *Borowelder*, according to the diversity of speech in divers places. Of this see *M. Lamberd* in his explication of Saxon words, *verbo Centuria*: and in his treatise of Constables; and *Smithe de Repub. Anglo. lib. 2. cap. 22.* It now signifieth Constable. See *Constable*.

Healfang, is compounded of two Saxon words (*Hals. i. collum*) and (*fang. i. capere, captivare.*) See *Pylorie*.

Heire (*Hares*) though, for the word, it be borrowed of the Latine; yet, it hath not altogether

the same signification with us, that it hath with the Civilians, for whereas they call him (*heredem*) *qui ex testamento succedit in universum jus testatoris*: the common Lawyers call him heire, that succedeth by right of blood, in any mans lands or tenements in fee, for there is nothing passeth with us *jure hereditatis*, but onely fee. Moveables, or chateles immoveable, are given by testament, to whom the Testator listeth, or else are at the disposition of the Ordinarie, to be distributed as hee in conscience thinketh meet, *Glossa in Provinciali constitut. Ita quorundam, De testamentis. verbo. Abintestato.* And whether a man enjoy moveable goods and chateles, by will, or the discretion of the Ordinarie, he is not with us called an Heire: but onely hee that succedeth either by testament, or right of blood in fee. *Coffaneus in consuetud. Burg. pag. 909.* hath a distinction of *heres*, which in some sort well accordeth with our law: For hee saith, there is *heres sanguinis, & hereditatis*. And a man may be *heres sanguinis* with us, that is, heire apparent to his Father, or other Ancestor: and yet may upon displeasure, or meere will be defeated of his inheritance, or at the least, the greatest part thereof.

Heyre loome, seemeth to bee com-

compounded of *heire* and *loom*, that is, a frame, namely to weave in. The word by time is drawn to a more generall signification than at the first it did beare, comprehending all implements of household, as namely tables, presses, cupboords, bedsteads, wain-scot, and such like, which by the custom of some Countries, having belonged to a house certain descents, are never inventaried after the decease of the owner, as Chatels, but accrue to the heyre with the house it selfe. This word is twice metaphorically used in that Divine speech, made by that most worthy and compleat nobleman, the Earle of Northampton, against that hellish, ougly, and damnable Treason of Gunpowder, plotted to consume the most vertuous King that ever reigned in Europe, together with his gracious Queene and precious posterity, as also the three honourable Estates of this renowned Kingdome.

Hock is the name of an Engine to take fish in the river of Owle by Yorke : anno 23 H. 8, ca. 18.

Heinsfare, alius *Hinefare*, (*discessio famuli à Domino.*) The word is compounded of *Hine*, a Servant, and *Fare*, an old English word, signifying a passage.

Henchman, or *heinsman*, is a

Germane word, signifying *Domesticum, aut unum de familia*. It is used with us for one that runneth on foot, attending upon a man of honour or worship. anno 3 Edw. 4, ca. 5. anno 24 Henric. 8, ca. 13.

Hengwite, significat *quantitatem misericordie de latrone sustenſo absq; consideratione* : *Fleta li. 1, ca. 47.* See *Hankwit*.

Herald (*heraldus*) is borrowed by us of the French *berault*, and in *M. Verstigans* judgement proceedeth originally from two Dutch words, *bere*, i. *exercitus*; and *bealt*, i. *pugil magnanimus*. As if he should be called the champion of the army, having by especiall office to challenge unto battell or combat. With us it signifieth an officer at armes, whose function is to denounce Warre, to proclaime peace, or otherwise to be imployed by the king in marshall messages, or other businesse. The Romanes called them plurally *Feciales*. Master *Stow* in his *Annals* deriveth them from *heroes*, pag. 12. which hee hath from other that writ of that subject, whose conjecture I leave to the Reader. Their office with us is described by *Polydore*, lib. 19, in this sort, speaking of the Knights of the Garter, he sayth, *Habent insuper apparitores ministros, quos heraldos dicunt: quorum praefectus armorum Rex vocatur* :

tatur : hii belli & pacis nuncii. Ducibus, Comitibusque à Rege factis insignis aptant, ac eorum funera curant. Hee might have added further, That they bee the Judges and examiners of Gentlemens armes; that they martiall all the solemnities at the coronations of Princes, manage combats, and such like. There is also one and the same use of them with us, and with the French nation, whence wee have their name. And what their office is with them, see *Lupanus lib. prim. de Magist. Francorum, ca. Heraldici*. There bee divers of them with us, whereof three beeing the chiefe, are called Kings at armes. And of them Garter is the principall, instituted and created by Henry the fifth. *Stowes Annals* pag. 584. whose office is to attend the Knights of the Garter at their solemnities, and to martiall the solemnities of the funeralls of all the greater Nobilitie, as of Princes, Dukes, Marquesses, Earles, Viscounts, and Barons. Yet I find in *Plowden, casu Reniger & Fagass*, That Edward the fourth granted the office of king of Heralds to one Garter, cum feudis & proficiis ab antiquo, &c. fol. 12 b. The next is *Clarentius*, ordained by Edward the fourth: for he attaining the Dukedome of Clarence, by the death of George his brother, whom

he beheaded for aspiring to the Crowne, made the Herald which properly belonged to the Duke of Clarence, a King at armes, and called him *Clarentius*. His proper office is, to martiall and dispose the funeralls of all the lesser Nobility, as Knights and Esquires, through the realme of the South side of Trent. The third is *Norroy*, or *Northroy*, whose office is the same on the North side of Trent, that *Clarentius* hath on this side; as may well appeare by his name, signifying the Northerne King, or King of the North parts. Beside these, there be six other properly called Heralds, according to their originall, as they were created to attend Dukes, &c. in martiall expeditions, viz. Yorke, Lancaster, Somerset, Richmond, Chester, Windlesour. Lastly, there bee foure other, called Marshalls or Purservants at armes, reckoned after a sort in the number of Heralds, and doe commonly succeed in the place of the Heralds, as they die or bee preferred: and those be *Blero*, *Mantle*, *Rougecroffe*, *Rougedragon*, and *Percullin*. The *Feciales* among the Romans were Priests, Nam *Nama Pompilius divini cultus institutionem in octo partes divisit, & ita etiam sacerdotum octo ordines constituit, &c. Septimam partem sacre constitutionis collegio eorum adiecit, qui Feciales vocantur. Erant autem ex optimis*

optimis domibus vivi electi, per omne ipsi vi: a tempus sacrati, quorum partes in eo versabantur, ut fidei publica inter populos praessent: neque justum aliquod bellum fore censebatur: nisi id per Feciales esset indictum. Qui ut Festus ait, à faciendo quod belli pacisque faciende apud eos jus esset. Feciales dicti sunt. Corasius Miscel. juris civil. li. I. c. 10. num. 12.

Herbage (*herbagium*) is a French word, and signifieth in our common Law, the fruit of the earth provided by nature for the bitte or mouth of the cattell. But it is most commonly used for a liberty that a man hath to feed his cattell in another mans ground, as in the forest, &c. *Cromptons Jurisdic. fol. 197.*

Herbenger, commeth of the French *heberger*, or *esberger*, *berberger*, i. *hospitio excipere*. It signifieth with us, an Officer of the Princes Court, that allotteth the Noblemen and those of the household their Lodgings. It signifieth also in *Kitchin*, an Inkeeper, *fo. 176.*

Hereditaments (*hereditamenta*) seeme to signifie all such things immoveable, be they corporeall or incorporeall, as a man may have to himselfe and his heires by way of inheritance. *Vide anno 32 Henr. 8, cap. 2.* or not beeing otherwise bequeathed, doe naturally and of course descend to

him which is our next heire of blood, and fal not within the compasse of an executor or administrator, as chatels do.

Heriot, see *Harriot*.

Hide of land (*hida terra*) *Saxonice* *hidelandes*, is a certain measure or quantitie of land, by some mens opinion, that may bee plowed with one plow in a year, as the author of the new Terms sayth, *verbo Hidage*. By other men it is an hundred acres. By *Beda* (who calleth it *Familiam*) it is as much as will maintaine a family. *Crompton* in his Jurisdiction, *fol. 220*, sayth, that it consisteth of an hundred acres, every acre in length forty perches, and in bredth fourc perches, every perch sixteene foot and a halfe. And againe *fol. 222*, A hide of land containech an hundred acres, and eight hides, or eight hundred acres containe a Knights fee. Of this reade more in *Master Lamberts Explication* of Saxon words, *verba Hida terra*. See *Carve*.

Hide and gaine, *Old nat. Brev. fo. 71. Coke lib. 4, Tirringhams case*, signifieth earable land. See *Gainage*.

Hidage (*hidagium*) is an extraordinary taxe to be payd for every hide of land. *Bracton lib. 2, c. 6*, writeth thus of it: *Sunt etiam quedam commune: prestationes, que servitia non dicuntur, nec de consue-*

tudine veniunt nisi cum necessitas inter-
 tervenerit, vel cum Rex venerit: sicut
 sunt Hidagia, Coragia, & Carva-
 gia: et alia plura de necessitate &
 ex consensu communi totius regni in-
 troducti, & que ad Dominum feu-
 di non pertinent, &c. Of this
 reade the new Expounder of Law
 Tearmes, who sayth that Hi-
 dage is to bee quit, if the King
 shall taxe all the lands by hides,
 and yet also graunteth it to bee
 the taxe it selfe, saying that it
 was woont to bee an usual kind
 of taxing, as well for provisi-
 on of armour, as payments of
 money.

Hinefare, see *Heinsfare*.

Hidel, i H. 7, ca. 6, seemeth to
 signifie a place of protection, as a
 sanctuary.

Hierlome, see *Heirlome*.

Hine, seemeth to be used for a
 Servant at husbandry, and the ma-
 ster hine a servant that overseeth
 the rest. anno 12 Rich. 2. cap.
 quarto.

Hoblers (*hobellarii*) are certain
 men that by their tenure are tyed
 to maintaine a little light Nagge,
 for the certifying of any invasion
 made by enemies, or such like
 perill toward the sea side, as
 Porchmouth, &c. Of these you
 shall reade, anno 18 Edward. 3,
 stat. 2, ca. 7. & anno 25 ejusd. stat.
 5, ca. 8.

Hogbenhine, is hee that com-
 meth guestwise to an house, and

lieth there the third night. After
 which time he is accounted of his
 family in whose house hee lieth:
 and if he offend the kings peace
 his host must bee answerable for
 him. *Bracton lib. 3, tract. 2, ca. 10*.
 In the Lawes of King Edward
 set forth by Master Lambert, he
 is called *Agghine*: where
 you may reade more of this
 matter.

Hirbe (*hirba*) is a petit haven to
 land wares out of vessels or boats:
 New booke of Entries, fol. 3, co-
 lum. 3.

Hoghead, is a measure of wine
 or oyle containing the fourth part
 of a tun, that is 63 gallons, an. i R.
 3, ca. 13.

Hoistings, see *Hustings*.

Homage (*Homagium*) is a
 French word, signifying *Fidem
 clientularem*.) For in the originall
 grants of land and tenements
 by way of fee, the Lord did not
 onely tie his tenents or feed men
 to certaine services, but also
 tooke a submission, with Promise
 and oath, to be true and loyall to
 him, as their Lord and Benefa-
 ctor. This submission was and is
 called homage: the forme where-
 of you have in the second statute,
 anno 17 Edw. 2. in these words:
 when a free man shall doe ho-
 mage to his Lord, of whom hee
 holdeth in chiefe, he shall hold
 his hands together betweene
 the hands of his Lord, and shall
 say,

say thus : I become your man from this day forth for life, for member, and for worldly honour, and shall owe you my faith for the land I hold of you : saving the faith, that I do owe unto our Sovereigne Lord the King, and to mine other Lords. And in this manner the Lord of the fee, for which homage is due, taketh homage of every tenent, as he cometh to the land or fee. *Glanvile lib. 9. cap. 1.* except they bee women, who performe not homage but by their husbands, (yet see *Fitzherbert*, that saith the contrary in his *natura. br. fol. 157. F.*) Reade *Glanvile* more at large in the said first Chapter, with the second, third and fourth; The reason of this *M. Skene* giveth *de verbo significatione, verbo Homagium, viz.* because Homage especially concerneth service in warre. Hee saith also, that consecrated Bishops, do no homage, but only fidelity : the reason may bee all one. And yet I find in the *Register. orig. fol. 296. a.* that a woman taking livery of lands holden by knights service, must do homage, but not being joyntly infeoffed, for then shee doth only fealty. And see *Glanvile* in the end of the first chapter of his ninth booke touching Bishops consecrated, whom hee denieth to performe homage to the King for their Baronie, but

only fealty. *Fulbeck* reconcileth this, *fol. 20. a.* in these words. By our law a religious man may doe homage, but may not say to his Lord. *Ego devenio homo vester*, because hee hath professed himselfe to bee onely Gods man, but hee may say, I do unto you homage, and to you shall bee faithfull and loyall. See of this *Britton cap. 68.* Homage, is either new with the fee, or ancestrell : that is, where a man and his Ancestors, time out of mind, have held their lands by homage to their Lord, whereby the Lord is tied to warrant the land unto his tenent. *New termes of the Law.* This homage is used in other Countries as well as ours, & was wont to bee called *Hominium*. See *Hotom. de verbis feudilibus, verbo. Homo.* *Skene* divideth it into *liegium & non liegium*, *de verb. signif. verbo Homage* : for the which see *Leige*, and *Hotoman, disputatione de feudis tertia.* Homage is sometime used for the jurie in the Court Baron, *Smith de Repub. Anglo. lib. 2, cap. 27.* The reason is, because it consisteth most commonly of such, as owe homage unto the Lord of the fee. And these of the Feudists are called *pares curiae, sive curiis, sive domus sic dicuntur eorum convassalli sive compares, qui ab eodem patrono feudum receperunt, vel qui in eodem territorio feudum*
ba-

babent. Hotoman. Of this Homage you may reade in the nine and twentieth chapter of the grand Customary of Normandy, where you shall understand of other sorts of homage, used by them, and strange unto us. Whereunto join *Hotoman, disputat. de feudis*, in divers places, and namely Columna 860 c, *hiis verbis* : Deinceps de nota hominii & feudalitiae subjectionis videamus. Omnium quidem video esse commune, ut dexteram tanquam in foederibus jungerent : plerumque etiam ut dexteris aversis, osculum praeberent, interdum ut ambas manus junctas patrono contrahendas praeberent : supplicum & deditiorum nomine, qui velatas manus porrigebant. And *pa. 861, hiis verbis* : Multis Galliae atque etiam Angliae moribus constitutum est (Quod ex Anglico Littletonico intelleximus) ut hominum servili & supplici veneratione, ac plane tanquam à dedititiis praestetur. Nam vasallus discinctus, nudo capite, ad pedes sedentis patroni prostratus, ambas manus junctas porrigit : quas dum Dominus suis manibus amplectitur, haec verba pronunciat : Here, venio in tuum hominum & fidem, & homo tuus fio ore & manibus ; tibi que juro ac spondeo fidelem me tibi futurum eorum fendorum nomine, quae tuo beneficio accepi, &c. Whereunto you may adde him, *colam. 819g. 822f. et 857, b & d, & f.* Of homage in Scotland,

reade *M. Skene de verb. signif. verbo Homagium.* To whom you may also joyn a plentiful discourse in *speculo Durandi*, commonly called *speculator* among the Civilians, *tit. De feudis.*

Homagio respectando, is a writ to the escheator, commanding him to deliver seisin of lands to the heire that is at full age, notwithstanding his homage not done : which ought to be performed before the heire have livery of his lands, except there fall out some reasonable cause to hinder it. *Fitz. nat. br. fo. 269.*

Homine eligendo ad custodiendam peciam sigilli pro mercatoribus aditi, is a writ directed to a Corporation, for the choice of a new man to keepe the one part of the Seale, appointed for Statutes Merchant, when the other is dead, according to the statute of *Aiton Burnel*, *Regist. original, fol. 178 a.*

Homine replegindo, is a writ for the bayle of a man out of prison : which in what cases it lieth, and what not, see *Fitz. b. natura brev. fo. 66.* See also the Register *origin. fo. 77.* See the new booke of Entries, *verbo, Homine replegindo.*

Homine capto in Withernamium, is a writ to take him that hath taken any bondman or woman, and led him or her out of the County, so that hee or she cannot

not to be replevied according to Law. Reg. orig. fo. 79, a. See *Wibbenham*.

Homicide (*homicidium*) is the slaying of a man: and it is divided into voluntary and casual: homicide voluntary is that which is deliberated and committed of a set minde and purpose to kill: Homicide voluntary is either with precedent malice, or without. The former is murder, and is the felonious killing through malice premeditated, of any person living in this Realme under the Kings protection, *West parte 2, Symbol. tit. Indite-ments, Sect. 37, &c. usque ad 51.* where you may see divers subdivisions of this matter. See also *Glanville, li. 14, cap. 3. Bract. li. 3, tract. 2, ca. 4, 15 & 17. Brit. ca. 5, 6, 7.* See *Murder, Manslaughter, & Chance-medly.*

Homesoken, alias *hamsoken*. *Hamsoca* is compounded of *Ham*, i. *habitatio*, and *soken*, i. *querere*. It is by *Bracton, lib. 3, tract. 2, cap. 23*, thus defined: *Homesoken dicitur invasio domus contra pacem Domini Regis*. It appeareth by *Rastall* in the title, Exposition of words, that in ancient times some men had an immunity to doe this: for he defineth *Homesoken* to bee an immunity from amercement from entering into houses violently, and without license: which thing seemeth so unreasonable, that mee thinketh

he should be deceived in that his exposition. I would rather think, it should bee a liberty or power granted by the King to some common person, for the cognizance or punishment of such a transgression: for so I have seene it interpreted, in an old note that I have given mee by a friend, which hee had of an expert man toward the Exchequer, but of what authority I know not. See *Hamsoken*.

Hondhabend, is compounded of two Saxon words (*hond*, id est hand, and *habend*, i. having) and signifieth a circumstance of manifest theft, when one is deprehended with the thing stollen, in his hand, *Bract. lib. 3, tractat. 2: cap. 31 & 54.* who also use the *handberend* for the same, *idem, cap. 8:*

Honour (*honor*): is, beside the generall signification, used especially for the more noble sort of Seigniories, whereof other inferior Lordships or Mannours depend, by performance of customes and services, some or other, to those that are Lords of them. And I have reason to thinke, that none are Honours originally, but such as are belonging to the King. Howbeit they may afterward bee bestowed in fee upon other Nobles. The maner of creating these Honours may in part bee gathered out of the statutes,

an. 34 Hen. 8, ca. 5. where Hampton Court is made an Honour : and *anno* 33 *q. s. d. e. m.*, ca. 37 et 38 ; whereby Amptill and Grafton bee likewise made Honours : and *anno* 37 *q. s. d. e. m.*, cap. 18. whereby the King hath power given by his Letters patente, to erect foure severall Honours, of Westminster, of Kingston upon Hull, Saint Othithes in Essex, and Dodington in Barkeshire. This word is also used in the selfe same signification in other nations. See *ca. licet causam. extra de probationibus*, and *M. n. s. i. n. g. e. r.* upon it, m. 4. In reading I have observed thus many Honours in England : The Honour of Aquila, *Cambden Britan. pa. 231.* of Clare, *pa. 351.* of Lancaster, *pa. 581.* of Tickhil, *p. 531.* of Wallingford, Nottingham, Bo-loine, *Magna Charta, ca. 31.* of West Greenewish, *Cambden, p. 29.* 239. of Bedford, *Pup. i. oculi, parte 5, ca. 22.* of Barhimsted, *Brook title Tenure, num. 16.* of Hwittam, *Cambden pa. 233.* of Plimpton, *Cromptons Jurisd. fo. 115.* Of Crevecure, and Hagenet Fobert, *anno* 32 Hen. 8, cap. 42. of East-Greenewish, of Wintlor in Barke-shire, and of Bealew in Essex, *ann. 37 H. 8, ca. 8.* of Peverel in the County of Lincoln, *Regist. origin. fo. 1.*

Horngeld is compounded of Horn and Gildem or Gelder, i. Solvere. It signifieth a taxe within

the forest to bee payd for horned beasts, *Cromptons Jurisd. fo. 197.* And to bee free therof, is a priviledge granted by the King unto such as he thinketh good, *Idem, ibidem* ; and *Rastall* ; in his Exposition of words.

Hors de son fee, is an exception to avoyd an action brought for rent, issuing out of certaine land, by him that pretendeth to bee the Lord, or for some customs and services : for if he can justifie that the land is without the compasse of his fee, the action falleth. *v. Brook hoc titulo.*

Hospitallers (*Hospitalarii*) were certaine Knights of an Order, so called because they had the care of hospitals, wherein Pilgrimes were received. To these Pope Clement the fifth transferred the Templers, which Order, by a Councel held at Vienna in France, he suppressed, for their many and great offences, as hee pretended. These Hospitalers bee now the Knights of Saint John of Malta, *Cassan. Gloria mundi, part. 9, considerat. 5.* This constitution was also obeyed in Edward the seconds time here in England, and confirmed by parliament. *Thom. Walsingham in hist. Ed. 2. Stornes Annals, ibidem.* These are mentioned, *an. 13 Ed. 1, ca. 43. & an. 9. H. 3, ca. 37.*

Hoftekrs (*Hofteffarius*) cometh of the French (*Hoftefer*, i. *Hofpes*) and fignifieth with us, thofe that otherwife wee call Inkeepers, *an 9. Ed. 3. ftat. 2. ca. 11.*

Hotchepot (*in partem pofitio*) is a word that cometh out of the Low-countries, where (*Hutspot*) fignifieth flefh cut into pretty pieces, and foddren with herbes or roots, not unlike that which the Romanes called *farraginem*. *Festus Littleton* faith that literally it fignifieth a pudding mixed of divers ingredients : but metaphorically a commixtion, or putting together of lands, for the equall divifion of them being fo put together. Examples you have divers in him, *fol. 55.* and fee *Britton, fol. 119.* There is in the Civill law *Collatio bonorum* answerable unto it, whereby if a childe advanced by the father in his life time, doe after his fathers deceafe, chalenge a childes part with the reft, hee muft caft in all that formerly hee had received, and then take out an equall fhare with the others. *Decollatio bonorum. 1. lib. 37. titulo 6.*

Houfebote, is compounded of *Houfe*, and *Bote*, i. *compensatio*. It fignifieth Estovers out of the Lords wood to uphold a tenement or houfe.

Houferobbing, is the robbing of a man in fome part of his houfe, or his booth, or tent in any faire

or market, and the owner, or his wife, children, or fervants being within the fame : for this is felony by *ann. 23. H. 8. ca. 1.* and *ann. 3. Ed. 6. ca. 9.* yea, now it is felony though none be within the houfe, *an. 39. Eliz. ca. 15.* See *Burglary*. See *West. part. 2. sym. tit. Indite-ments, feft. 67.*

Hudegeld, fignificat *quintanti- am transgressionis illata in servum transgredientem. Fleia li. 1. cap. 47.* *Quere* whether it fhould not be *Hindegeld*.

Hue and *Crie* (*Hutesium & Clamor*) come of two French words (*Huer*) and (*Crier*) both fignifying to fhout or crie aloud. *M. Maxwood, parte 2. of his Forest lawes, cap. 19. num. 11.* faith, that *Hew* is Latine, meaning belike the *Interjection* : but under reformation, I thinke hee is deceived; this fignifieth a purfuite of one having committed felonie by the high way, for if the partie robbed, or any in the company of one murdered or robbed, come to the Conftable of the next towne, and will him to raife *Hiew* and *Crie*, or to make purfuit after the offendour, defcribing the partie, and fhewing as neere as he can, which way hee is gone : the Conftable ought forthwith to call upon the Parifh for ayde in feeking the felon : and if hee bee not found there, then to give the next Conftable

warning, and hee the next, untill the offendour bee apprehended, or at the least, untill hee be thus pursued to the Sea side. Of this reade *Bracton, lib. 3. tract. 2. cap. 5. Smith de Repub. Anglo. lib. 2. cap. 20. and the statute, anno 13. Ed. 1. statute of Winchester. ca. 3. & a. 28. Ed. 3. ca. 11. & anno 27. El. c. 13.* The Normanes had such pursuit with a Crie after offenders as this is, which they called *Harro*: whereof you may reade the *Grand Customarie, cap. 54.* Some call it *Harol*: the reason whereof they give to be this, that there was a *Duke of Normandy*, called *Rol*, a man of great justice and severity against grievous offenders: and that thereupon, when they follow any in this pursuit, they cry *Har-Rol*, as if they should say, *Ab Rol* where art thou that wert wont to redresse this, or what wouldst thou doe against these wretches, if thou now wert living? But in truth I thinke it commeth from *Harier. i. flagitare, inquietare, urgere.* Hue is used alone, *anno 4. Ed. pri. stat. 2.* This the Scots call *Huesum* and *M. Skene de verb. signif. verb. Huesum*, saith, that it commeth of the French *Oyes. i. Audite*: making one etymologie of this and the crie used before a Proclamation. The manner of their Hue and crie, as he there describeth it, is that if a robbery be done, a horne

is blowne, and an out-crie made: after which, if the partie flie away, and not yeeld himselfe to the *Kings Bailiffe*, hee may be lawfully slaine, and hanged up upon the next gallowes. Of this Hue and crie, see *Cromptons Justice of peace, fol. 160. b.*

Huiffers. See *Uffers.*

Hundred (Hundredum) is a part of a Shire, so called originally, because it contained ten tithings called in Latine *Decennas*: These were first ordained by King *Alfred* the 29. King of the *West Saxons.* *Stowes annals, pag. 105.* of these thus speaketh *M. Lamb.* in his explic. of Saxon words, verbo. *Centuria: Aluredus rex, ubi cum Guthruno Daco foedus iniecit, prudentissimum illud olim à Ietrone Moyse datum sicutis consilium, Angliam primum in satrapias, Centurias, & Decurias, partitiis est. Satrapiam, shire à shiran (quod partiti significat) nominavit: Centuriam, Hundred: & Decuriam, Tothing sive Tirumantak. i. Decemvirale collegium appellavit: atq; iisdem nominibus vel hodie vocantur, &c.* And againe afterward: *Decrevit tum porro Aluredus libera ut conditionis quisque in Centuriam ascriberetur aliquam, atq; in Decemvirale aliquod coarctaretur collegium. De minoribus negotiis Decuriones ut judicarent: ac si quæ esset res difficilior, ad Centuriam deferrent: difficilimas denique & maximi momenti* lites,

lites, Senator & prepositus in frequenti illa ex omni satrapia conventu componerent. Modus autem iudicandi qui fuerit, Ethelredus Rex, legum, quas frequentis apud Vasingum senatu sancivit, capite 4. hiis fere verbis exponit. In singulis centuriis comitia sunt, atque liberae conditionis viri duodecim, etate superiores, una cum preposito, sacra tenentes jurant, se adeo virum aliquem innocentem haud damnaturos sententiae absoluturos. This forme of dividing Counties into Hundreds for better Government, howsoever it is attributed to King Alfred here with us: yet hee had it from Germanie, whence hee and his came hither. For there *Centis* or *Centena* is a jurisdiction over a hundred towns, and containeth the punishment of Capitall crimes. *Andreas Kitchen*, in his tractat, de sublimi & regio territorii jure. cap. 4. pag. 123. where hee also sheweth out of *Tacitus*, de situ & moribus Germ. that this division was usuall amongst the Germans before his dayes. By this you understand the originall and old use of Hundreds, which hold still in name, and remaine in some sort of combination, for their severall services in divers respects, but their jurisdiction is abolished, and growne to the County Court, some few excepted, which have beene by pri-

viledge annexed to the Crowne, or granted unto some great subject, and so remaine still in the nature of a Franchise. And this hath beene ever sithence the statute anno 14. Ed. 3. stat. 1. cap. 9. whereby these Hundred Courts formerly sermed out by the Sheriffe to other men, were reduced all, or the most part, to the County Court, and so have and doe remaine at this present. So that where you reade now of any Hundred Courts, you must know, that they be severall franchises, wherein the Sheriffe hath not to deale by his ordinary authoritie, except they of the Hundred refuse to doe their office. See *West. parte 1. symbol. lib. 2. Sect. 288.* See *Turn.* The new expounder of Law termes saith, that the Latine *Hundredum* is sometime used for an immunitie or priviledge, whereby a man is quit of money or customes due to the Governour, or Hundreders.

Hundreders (*Hundredarii*) be men empaneled, or fit to bee empaneled of a Jurie upon any Controversie, dwelling within the Hundred where the land lieth, which is in question, *Cromptons Jurisd. fol. 217. & anno 35. Henrici 8. ca. 6.* It signifieth also him that hath the jurisdiction of a Hundred, and holdeth the Hundred Court, anno 13. Ed. pri.

ca. 38. an. 9. Ed. 2. stat. 2. & an. 2. Ed. 3. ca. 4. and sometime is used for the Baliffe of an hundred. Horn in his mirrour of Justices. lib. 1. ca. del office del coroner.

Hundred lagge, signifieth the Hundred Court, from the which all the officers of the Kings Forest were freed by the Charter of Canutus, ca. 9. Manwood, parte 1. pag. 2.

Huors. See Condors.

Huseans, commeth of the French (*bouseaux*. i. ocrea) a boot. It is used in the statute an. 4. Ed. 4. cap. 7.

Hustings (*Hustingum*) may seeme to come from the French (*Haulser*. i. tollere, attollere, suberigere) for it signifieth the principall and highest Court in London, anno 11. H. 7. cap. 21. & Fitz. nat. br. fol. 23. See anno 9. Ed. pri. cap. unico. Other Cities and Townes also have had a Court of the same name, as Winchester, Lincoln, Yorke, and Sheppey, and others, where the Barrons or Citizens have a Record of such things as are determinable before them. Fleta, libro 2. cap. 55.

Husfastene, is hee that houldeth house and land, Braet. li. 3. tra. 2. ca. 10. His words be these: *Et in franco plegio esse debet omnis, qui terram tenet & domum, qui dicuntur Husfastene, & etiam alii qui illis deserviunt, qui dicuntur Folgheres, &c.*

A rock, an. 1. R. 3. ca. 8. is a kind of cork so called.

Identitate nominis, is a writ that lyeth for him who is upon a *Capias* or *Exigent*, taken and committed to prison for another man of the same name: whereof see the forme and farther use, in Fitz. nat. br. fol. 267. See the Regist. original, fol. 194.

Idiot, and hee that afterward becommeth of insane memory, differeth in divers cases, Coke, fol. 154. b. lib. 4. See here following *Idiota inquirenda*.

Idiota inquirenda vel examinanda, is a writ that is directed to the Excheatour or the Sheriffe of any County, where the King hath understanding that there is an *Idiot*, naturally borne so weake of understanding, that hee cannot governe or manage his inheritance, to call before him the party suspected of Idiocie, and examine him: And also to inquire by the oathes of 12. men whether he be sufficiently witted to dispose of his owne lands with discretion or not, and to certifie accordingly into the Chancerie: For the King hath the protection of his Subjects, and by his prerogative the government of their lands and substance, that are naturally defe-

defective in their owne discretion : *statut. de prerogativa Regis editum, anno 17. Ed. 2. cap. 8.* whereof reade *Stawns. prerog. ca. 9.* and of this writ, reade *Fitz. nat. br. fol. 232.* See the *Regist. origin. fol. 267.*

Jetzon. See *Flotzon.*

Jesfaile, is compounded of three French words, *Pay faille. i. ego lapsus sum* : and signifieth in our common law, an over-sight in pleading, touching the which you have a statute, *anno 32. H. 8. ca. 30.* whereby it is enacted, that if the Jurie have once passed upon the issue, though afterward there be found a *Jesfaile* in the pleading, yet judgement shall likewise be given according to the verdict of the Jurie. See *Brooke, 1st. Repleder.* The author of the new *Termes of law* saith, that a *Jesfaile* is when the parties to any Sute, have in pleading proceeded so farre, that they have joyned issue, which shall be tryed, or is tried by a Jury or inquest : and this pleading or issue is so badly pleaded or joyned, that it will be error if they proceed. Then some of the said parties may by their Councell shew it to the Court, as well after verdict given, and before judgement, as before the Jury be charged : the shewing of which defects before the Jury charged, was often when the Jury came into the Court to trie the issue,

then the Councell which will shew it, shall say : This inquest you ought not to take : and if it be after verdict, then hee may say : To Judgement you ought not to goe : and because of this many delays grew in Sutes, divers statutes are made to redresse them : viz, *32. H. 8. ca. 30.* and others in *Q. Elizabeths dayes*, and yet the fault little amended.

Ignoramus, is a word properly used by the grand Enquest empaneled in the inquisition of causes criminall and publicke : and written upon the Bill, whereby any crime is offered to their consideration, when as they mislike their evidence, as defective, or too weake to make good the presentment. The effect of which word so written is, that all farther inquiry upon that party for that fault, is thereby stopped, and hee delivered without farther answer. It hath a resemblance with that custome of the ancient Romanes : where the Judges, when they absolved a person accused, did write *A.* upon a little table provided for that purpose. i. *Absolvimus* : if they judged him guilty, they writ *C. id est. Condemnamus* : if they found the cause difficult and doubtfull, they writ *N. id est. Non liquet.* *Asconius Pedianus in oratio. pro Milone. Alexander ab Alexandro. Genial. dierum. lib. 3. cap. 14.*

Ikenild street, is one of the foure famous wayes that the Romanes made in England, taking the beginning ab *Ikenis*, which were they that inhabited *Norths. Souths. and Cambridge-shire, Cam. Britan.* fol. 343. See *Watling-street*.

Imparlançe (*interlocutio vel interloquela*) is a petition made in Court upon the Count of the Demandant by the Tenent, or Declaration of the Plaintiffe, by the Defendant, whereby hee craveth respite, or any other day to put in his answer. See *Brooke*, titulo *Continuance*. See *Dies Datus*: *Imparlançe* seemeth to be generall or speciall: speciall *imparlançe* is with this clause, *Salvis omnibus privilegiis tam ad jurisdictionem curia, quam breve & narrationem.* *Kitchin*, fol. 200. Then generall in reason must be that, which is made at large without inserting that or the like clause. See *Emperlançe*.

Impeachment of waste (*impetio vasti*) commeth of the French (*empeschement. i. impedimentum*) and signifieth with us, a restraint from committing of waste upon lands or tenements. See *Waste*.

Implements, commeth of the French (*employer. i. insumere in re aliqua*) it signifieth with us, things tending to the necessary use of any Trade, or furniture of household.

Impost, is a French word signi-

fying tribute, comming of the verb (*imposer. i. injungere, irrogare.*) It signifieth with us, the taxe received by the Prince for such Merchandize, as are brought into any Haven from other Nations, anno 31. *Elizabeth*, cap. 5. And I thinke it may in some sort be distinguished from custome, because custome is rather that profit, which the Prince maketh of wares shipped out of the land: yet they may bee confounded.

Improvement. See *Approve*.

In casu consimili, is a writ. See *Casu consimili*.

In casu proviso, is a writ. See *Casu proviso*.

Incident (*incidens*) signifieth a thing necessarily depending upon another as more principall: For example, a *Court Baron* is so incident to a Manor, and a *Court of Pipowders* to a Faire, that they cannot be severed by grant: for if a Manor or Faire be granted, these Courts cannot be reserved, *Kitchin*, fol. 36.

Incroche (*incrociarie*) See *Encroachments*. Admirals, and their Deputies doe incroache to themselves Jurisdictions, &c. ann. 15. R. 2. cap. 3.

Indenture (*indentura*) is a writing comprising some contract betweene two, and being indented in the toppe answerably to another, that likewise con-

containeth the same contracts : this the Latines called *ὀφεισμός*, or *ὀφεισμός*, which among the Civilians, is defined to be *scriptura inter creditorem & debitorem indentata, in cuius scissura literis capitalibus hoc dictio ὀφεισμός*. or plurally *τὰ ὀφεισμά* scribitur. and it differeth from *χρεὼς*, quia hoc manu unius tantum, puta debitoris scribitur, & penes debitorem relinquitur, prout constituitur de offic. arcl. id. 100. cap. pri. verbo In scriptis. vid. Gotkoff. in notis ad l. 27. §. 3. m. ad leg. Corn. de fals.

Indicavit, is a Writ or Prohibition that lyeth for a patron of a Church, whose Clerke is defendant in court Christian, in an action of Tithes commenced by another Clerke, and extending to the fourth part of the Church, or of the Tithes belonging unto it; for in this case, the suite belongeth to the Kings Court, by the Statute, *West. 2. cap. 5.* wherefore the Patron of the Defendant, being like to be prejudiced in his Church and Advowzen, if the Plaintiffe obtaine in the court Christian, hath this meanes to remoove it to the Kings Court; the Register originall, fol. 35. b. See *Old nat. br. fol. 31.* and the Register, fol. 35. and Briton. cap. 109. fol. 280. A.

Indictment (*indictamentum*) see *Indigment*.

Indivisum, is used in the com-

mon Lawe, for that which two hold in common without participation. *Kitchin fol. 241.* in these words : hee holdeth *pro indiviso*, &c.

Indorsement (*indorsamentum*) signifieth in the common law, a condition written upon the other side of an Obligation, *West. parte 2. symbol. Sect. 157.*

Infang, alias *inseng*, significat quietantiam prioris preise ratione convivii, *Flet. lib. 1. cap. 47.*

Infangtheb, or *Fingfangtheb*, or *Infangtheof*, is compounded of 3. Saxon words : the preposition (*In*) (*fang* or *fong*) to take or catch) and (*theb*) it signifieth a priviledge or libertie granted unto Lords of certain Maners, to judge any thiefe taken within their see. *Bracton, lib. 3. tract. 2. cap. 8.* In the lawes of King Edward, set out by *M. Lamberd, num. 26.* you have it thus described : *Infangthebe, Iustitia cognoscens latronis suae st, de homine suo, si captus fuerit super terram suam : Illi vero qui non habent has consuetudines, coram iusticia regia rectum faciant in Hundredis, vel in Wapentachiis vel in Scyris.* The definition of this see also in *Britton, fol. 90. b.* and *Roger Hoveden, parte poster. suorum annalium. fol. 345. b.* & *M. Skene de verborum significat. verbo Infangthebe*, who writeth of it at large, reciting diversitie of opinions touching this and

oufangtheefe: Fleta saith that (*in-fangtheef*) for so hee writeth it, *dicitur latro captus in terra alicuius seiscitus aliquo latrocinio de suis propriis hominibus. lib. 1. cap. 27. §. Infangtheefe.*

Information See *Enditement*: See the *New Termes of Law*.

Informor (*informator*) in french (*informateur*) is an officer belonging to the Exchequer or Kings Bench, that denounceth or complaineth of those that offend against any penall statute. They are otherwise called *promotors*, but the men being bashfull of nature, doe blush at this name: these among the Civilians are called *delatores*.

Informatus non sum, is a formall answere of course made by an Atturney, that is commanded by the Court to say what hee thinketh good in the defence of his Client, by the which hee is deemed to leave his Client undefended, and so judgement passeth for the adverse partie. See the new booke of Enteries. *titulo. Non sum informatus.* and Judgement 12.

Ingressu, is a Writ of Enterie, that is, whereby a man seeketh entry into Lands or Tenements; it lyeth in many divers cases wherein it hath as many diversities of formes. See *Entry*. This Writ is also called in the particular, *precipe quod reddat*: because those be

formall words in all Writs of entry. The Writs as they lye in divers cases, are these described in the *Old Natura brev. Ingressu ad terminum qui prateriit*, fol. 121. *Origin. Regist. fol. 227.* which lyeth where the Lands or Tenements are let to a man for terme of yeares, and the Tenant houldeth over his terme: *Ingressu dum non fuit compas mentis*, fol. 223. *original. Regist. fol. 218.* which lyeth where a man selleth Land or Tenement when hee is out of his wits, &c. *Ingressu dum fuit infra statem*, fol. 223. *Register original, fol. 228.* which lyeth where one under age selleth his Lands, &c. *Ingressu super disseisina in le quibus* fol. 125. *Register. origin. fol. 229.* which lyeth where a man is disseised and dyeth, for his heire against the disseisour. *Ingressu in per* fol. 126. *origin. regist. fol. 229.* *Ingressu sic cui in vita*, fol. 128. *original. Register fol. 239.* both which see in *Entry*: *Ingressu causa matrimonii prelocuti*, fol. 130. *original. register. fol. 233.* which see *causa matrimonii prelocuti*. *Ingressu in casu proviso*, fol. 132. *Regist. origin. fol. 235.* which see *casu proviso*. *Ingressu cui ante divorcium*, fol. 130. *original. register. fol. 233.* for which see, *cui ante divorcium*. *Ingressu in consimili casu*, fol. 233. *original. Register fol. 236.* for which see *Consimili casu*, *Ingressu sine consensu capituli*, fol. 128. *original*

ginal register, fol. 230. for which see *Sine assensu capituli. Ingressu ad communem legem. fol. 132. original register, fol. 234.* which lyeth, where the Tenant for terme of life, or of anothers life, Tenant by curtesie, or Tenant in Dower maketh a feofment in fee, and dyeth; he in the reversion shall have the foresaid writ against whomsoever that is in the land, after such feofment made.

Ingrossing of a fine, is making the Indentures by the Chirographer, and the delivery of them to the party unto whom the cognisance is made, *Fitzb. nat. br. fol. 147. A.*

Ingrosser (ingrossator) commeth of the French *Grossier. i. crassando, or Grosier. i. Solidarium venditor.* It signifieth in the common law, one that buyeth come growing, or dead victuall, to sell again, except Barly for Mault, Oats for Oatmeale, or victuals to retaile, badging by licence, and buying of oyles, spices, and victuals, other then fish or salt, *anno 5. Edw. 6. cap. 14. anno 5. Elizab. cap. 14. anno 13. Elizab. cap. 25.* these be *Ad. Wests* words, *parte 2. Symbol. titule Inditaments. S. 64.* Howbeit, this definition rather doth belong to unlawfull ingrossing, then to the word in generall. See *Forstaller.*

Inheritance (hereditas) is a perpetuallie in lands or tenements to

a man and his heires. For *Littleton ca. 1. li. 1.* hath these words: and it is to be understood, that this word (*inheritance*) is not onely understood, where a man hath inheritance of Lands and Tenements by discent of heritage, but also every fee simple, or fee taile that a man hath by his purchase, may be said inheritance: for that, that his heires may inherit him: Severall inheritance is that, which two or more hold severally, as if two men have land given them, to them and the heires of their two bodies, these have joynt estate during their lives, but their heires have severall inheritance, *Kitchin, fol. 155.* See the new Termes of law, *verbo Emheritance.*

Inhibition (Inhibitio) is a writ to inhibit or forbid a Judge from farther proceeding in the cause depending before him. See *Fitzb. nat. br. fol. 39.* where he putteth prohibition and inhibition together: inhibition is most commonly a writ issuing out of a higher Court Christian to a lower and inferiour, upon an Appeale, *anno 24. H. 8. cap. 12.* and prohibition out of the Kings Court to a Court Christian, or to an inferiour Temporall Court.

Injunction (injunctio) is an interlocutory decree out of the Chancery, sometimes to give possession unto the Plaintiffe, for want

of apparence in the Defendant, sometime to the Kings ordinary Court, and sometime to the Court Christian, to stay proceeding in a cause upon suggestion made, that the rigour of the law, if it take place is against equitie and conscience in that case. See *West. parte 2. symb. titule Proceeding in Chancerie. Sect. 25.*

Inlawgh (*Inlagatus*) vel homo sub lege.) signifieth him that is in some franck pledge, of whom take *Bractons* words, li. 3. tract. 2. cap. H. iii. 5. *Minor vero, & qui infra etatem duodecim annorum fuit, utlagari non potest nec extra legem poni: quia ante talem etatem non est sub lege aliqua, nec in decenna, non magis quam femina, que utlagari non potest quia ipsa non est sub lege. i. Inlawghe anglie: sc. in franco plegio sive decenna sicut masculus duodecim annorum & ulterius, &c. Inlawghe, significat hominem subiectum lege, Fleta, lib. 1. cap. 47.*

Inlagary (*Inlagatio*) is a restitution of one outlawed, to the Kings protection, and to the benefit or estate of a subject, *Bracton, lib. 3. tract. 2. cap. 14. iii. 6, 7, 8. Britton. cap. 13.*

Inmates, are those that be admitted to dwell for their money joyntly with another man, though in severall roomes of his Mansion house passing in and out by one doore, and not being able

to maintaine themselves, which are inquirall in a Lect, *Kitchin, fol. 45.* where you may reade him at large, who be properly *Inmates* in intendment of law, and who not.

Imprison, anno 18. Ed. 3. stat. 4. cap. unico. seemeth to signifie so much as an attempt, comming of the French (*Empris*) which is all one with (*Enterpris*) an enterprise.

Inquirenda, is an authoritie given to a person or persons, to inquire into something for the Kings advantage; which, in what cases it lyeth, see the *Register originall, fol. 72, 85, 124, 265, 266, 179, 267.*

Inquisition (*Inquisitio*) is a manner of proceeding in matters criminal, by the office of the Judge, which *Hofstiensis* defineth thus: *Inquisitio nihil aliud est quam alicujus criminis manifesti ex bono & equo Judicis competentis canonice facta investigatio, ca. qualiter. de accusatio.* in the *Decretales*: this course wee take here in England by the great Enquest before Justices in Eyre. See *Eyre*; and the places in *Bracton* and *Britton* there noted. *Inquisition* is also with us, used for the King in temporall causes and profits, in which kind it is confounded with Office, *Stawns. prerog. fo. 51. See Office.*

Inrolement (*Irrotulatio*) is the Register

Registring, recording or entring of any lawfull act in the Rolles of the Chancerie, as recognisance acknowledged, or a Statute, or a Fine levied. See *West. parte 2. symbol. titulo Fines. Sect. 133.*

Infirmul tenuit, is one species of the writ called a *Formdon*. See *Formdon*.

Intakers, be a kind of Thieves in *Ridsdall*, anno 9. H. 5. ca. 8. so called, as it seemeth, because they dwelling within that libertie, did receive in such booties of cattell or other things as the outparters brought in unto them. See *Outparters*.

Interdiction (*Interdictio*) is used in the common law, in the same signification that it hath in the Canon law, where it is thus defined: *interdictio est censura ecclesiastica prohibens administrationem divinarum: e. quod in te: depovitent: & remiss.* in the Decretals: and thus is it used, *anno 24. H. 8. cap. 12.*

Interpleder. See *Enterpleder*.

Intrusion (*Intrusio*) by *Bracton lib. 4. cap. 2.* is thus defined: *Intrusio est, ubi quis, cui nullum jus competit in re nec scintilla iuris, possessionem vacuum ingreditur, que nec corpore nec animo possideatur, sicut hereditatem jacentem antequam adita fuerit ab heredem, vel saltem a domino capitali ratione custodie, vel ratione eschaeta siforte heredes non*

*existant, vel si post mortem alicuius per finem factum, vel per medium donationis, ubi successio sibi locum vindicare non possit, vel si post mortem alicujus qui tenuit ad vitam debeat tenementum reverti ad proprietarium, ponat quis se in seissimam antequam tenementum illud veniat ab illis ad quem pertinere deberet ex predictis causis, with whom agreeth Fleta, lib. 4. cap. 30. sect. 1. & 2. See Britton cap. 65. to the same effect. See the new booke of Entries, verb. *Entrusion*. See *Entrusion*. See *Disseisin*: the Author of new Termes of law would have intrusion especially after the tenant for life is deceased. *Verbo Abatement*, and abatement in all other cases: But I finde not any Latine word for Abatement but *intrusio*, so that I rather thinke these two English words to be Synonyms: and Fleta cap. supra citato, seemeth direct against this his opinion.*

Intrusione, is a Writ that lyeth against the Intruder: *Registr. fol. 233.*

Inventarie (*inventarium*) is a description or repertory orderly made of all dead mens goods and Cattels prized by foure credible men or more, which every Executor or Administrator ought to exhibite to the Ordinary, at such times as hee shall appoint the same. *West. parte prim. Symb. lib. 2. sect. 696.* where likewise

you may see the forme: This Inventory proceedeth from the Civill Law: for whereas by the antient Law of the Romanes, the Heire was tyed to answer all the Testators debts, by which meanes heritages were prejudicial to many men and not profitable: *Institution* to incourage men the better to take upon them this charitable office, ordeined that if the Heire would first make and exhibite a true Inventory of all the Testators substance comming to his hand, hee should be no further charged, then to the value of the Inventory: *l. ult. Cod. de Jure deliberando.*

Invest (*investire*) commeth of the French word (*Investre*) and signifieth to give possession. Heare *Hotoian de verbis feudalibus, verbo Investitura*: *Investitura barbarum nomen, barbaricam quoq; rationem habet. Nam ut ait Feudista, lib. 2. tit. 2. Investitura proprie dicitur quando basta vel aliquod corporum traditur a domino*; with us we use likewise to admit the Tenant, by delivering them a verge or rodd into their hands, and ministring them an oath, which is called *Investing*: others define it thus: *Investitura, est alienum in suum jus introductio.*

Inure, signifieth to take effect: as the pardon inureth: *Statut. prerog. fol. 40. See Enure.*

Ioynder, is the coupling of two

in a suit or action against another: *Fitzhinnat. br. fol. 118. H. 201. H. 221. & H.* in many other places, as appeareth in the *Index. verbo Ioynder.*

Ioynt tenants (*simultenentes*) liber intrationum, titulo Formidore in uen. 3. bee those that come to and hold Lands or Tenements by one title *pro indiviso*, or without partition. *Littlton lib. 3. cap. 3. and Termes of Law: See Tenants in common.*

Ioyning of issue (*Iunctio exitus*) See *Issue.*

Joynture (*Junctura*) is a covenant whereby the husband or some other friend in his behalfe assureth unto his wife, in respect of mariage, lands, or tenements for terme of her life, or otherwise. See *West. part. 2. Symbol. lib. 2. titulo Covenantis, sect. 128.* and the new exposition of the law Termes: It seemeth to be called a *Ioynture*, either because it is granted *ratione juncture in matrimonio*, or because the land in Franke mariage, is given joyntly to the Husband and the Wife, and after to the Heires of their bodies, whereby the Husband and Wife be made joynt tenants during the coverture. *Coke lib. 3. Butler and Bakers case. f. 27. b. See Franchmarriage. Ioynture*, is also used as the abstract of *Ioynt tenants. Coke l. 3. the Marques of Wincchesters Case. fol. 3. a. b. Junctura*, is also by

Bracton and *Fleta* used for joyn-
ing of one bargaine to another;
Fleta lib. 2. cap. 60. touching the
selfe same thing : and therefore
joynture in the first signification,
may be so called, in respect that
it is a bargaine of livelihood for
the wife : adjoynd to the con-
tract of marriage.

Journ Choppers, anno 8. Hen. 6.
cap. 5. be regraters of yarne. Whe-
ther that wee now call (yarne)
were in those dayes called (journ)
I cannot say : but (Choppers)
in these dayes are well knowne to
be changers, as choppers of Churches,
&c.

Journeymen, commeth of the
French (*Journee*) that is a day, or
dayes worke, which argueth that
they were called Journeymen,
that wrought with others by the
day, though now by statute it be
extended to those likewise, that
covenant to worke in their oc-
cupation with another by the
yeare, anno quinto Elizabeth, *cap.*
quarto.

Issue (*Exitus*) commeth of the
French (*Issir. i. emanare*) or the
Substantive (*Issue. i. exitus, even-*
tus.) It hath divers applications
in the common law : sometime
being used for the children be-
gotten betweene a man and his
wife : sometime for profits grow-
ing from an amercement or fine,
or expences of suit : sometime
for profits of lands or tene-

ments : *West. 2. anno 13. Edw.*
prim. cap. 39. sometime for that
point of matter depending in suit,
whereupon the parties joyne and
put their cause to the triall of the
Iury : and in all these it hath but
one signification, which is an ef-
fect of a cause proceeding, as the
children be the effect of the ma-
riage betweene the Parents : the
profits growing to the King or
Lord from the punishment of a-
ny mans offence, is the effect of
his transgression : the point refer-
red to the triall of twelve men is
the effect of pleading or proceffe
Issue, in this last signification, is
either generall or speciall : Ge-
nerall issue seemeth to be that,
whereby it is referred to the Iury
to bring in their verdict, whe-
ther the Defendant have done a-
ny such thing, as the Plaintiffe
layeth to his charge. For exam-
ple: if it be an offence against a-
ny Statute, and the Defendant
plead, *not culpable* : this being
put to the Iury, is called the ge-
nerall issue : and if a man com-
plaine of a private wrong which
the Defendant denieth, and plead,
no wrong nor disseisin, and this
be referred to the 12. it is like-
wise the generall issue, *Kitchin,*
fol. 225. See the *Doctor* and *Stu-*
dent, fol. 158. b. the speciall issue
then must be that, where speciall
matter being alleadged by the
Defendant for his defence, both

the parties joyne thereupon, and so grow rather to a Demurrer, if it be *questio Iuris*, or to tryall by the Iurie, if it be *questio facti*; see the new Booke of Entries: verbo, *Issue*.

Iuncture. See *Joynture*.

Jure patronatus, See the new Booke of Entries, verbo *Iure patronatus in quare impedit*. fol. 465. col. 3.

Jurie (*Jurata*) commeth of the French (*Iurer*. i. *jurare*) it signifieth in our Common Law, a company of men; as 24. or 12. Sworne to deliver a truth upon such evidence as shall be delivered them touching the matter in question. Of which tryall who may and who may not bee empanelled; see *Fitzb. nat. brev.* fol. 165. D. And for better understanding of this point, it is to be knowne, that there be three manner of trialls in England: one by Parliament, another by battell, and the third by Assise or Iurie: *Smith de Repub. Anglorum*, lib. 2. cap. 5, 6, 7. touching the two former reade him, and see Battell and Combat, and Parliament: the triall by Assise (be the action civil or criminall, publike or private, personall or reall) is referred for the fact to a Iurie, and as they finde it, so passeth the Iudgement, and the great favour that by this the King sheweth to his Subjects more then the Princes

of other Nations, you may reade in *Glanvil. lib. 2. cap. 7.* where he called it *Regale beneficium Clementii principis de consilio procerum populis indultum*, quo vite hominum & Status integritati tam salubriter consulitur; ut in iure, quod quis in libero soli tenemento possidet, retinendo, duelli casum declinare possint homines ambiguum, &c. see the rest. This Iury is not used onely in Circuits of Justices Errant, but also in other Courts, and matters of Office, as if the Escheatour make inquisition in any thing touching his Office, hee doth it by a Iurie or Inquest: if the Coroner inquire how a subject found dead, came to his end: hee useth an Inquest; the Iustices of Peace in their quarter Sessions, the Sheriffe in his Countie and Turne, the Baylisfe of a Hundred, the Steward of a Court Leete, or Court Baron, if they inquire of any offence, or descide any cause betweene party and party, they doe it by the same maner. So that where it is said that all things bee triable by Parliament, Battell, or Assise; Assise in this place is taken for a Iurie or Enquest, empaneled upon any cause in a Court where this kind of triall is used: and though it be commonly deemed, that this custome of ending and desciding causes proceed from the Saxons and Brittons, and was of fa-

favour permitted unto us by the Conquerour : yet I find by the grand *Customarie* of *Normandie*, *cap. 24.* that this course was used likewise in that Country. For Assise is, in that Chapter, defined to be an assembly of wise men, with the Baylisfe in a place certaine at a time assigned fortie dayes before, whereby Iustice may be done in causes heard in the Court. Of this custome also, and those Knights of *Normandie*, *Johannes Faber* maketh mention, in the *Rubrique* of the Title *de militari testamento* : in *Institut.* this Jury, though it appertaine to most Courts of the common law, yet is it most notorious in the halfe yeare Courts of the Iustices errants, commonly called the great Assises, and in the quarter Sessions, and in them it is most ordinarily called a Iurie. And that in civill causes : whereas in other Courts, it is oftener termed an Enquest, and in the Court Baron the Homage. In the generall Assise, there are usually many Iuries, because there be store of causes both civill and criminall commonly to be tried, whereof one is called the Grand Jury, and the rest Petit Iuries : whereof it seemeth there should be one for every Hundred, *Lamb. Eirenar. lib. 4. cap. 3. pag. 384.* The Grand Iurie consisteth ordinarily of 24. grave and

substantiall Gentlemen, or some of them Yeomen, chosen indifferently out of the whole Shire by the Sheriffe, to consider of all Bills of Inditement preferred to the Court : which they doe either approve, by writing upon them these words : *Bills vera* : or disallow, by writing, *Ignoramus* : such as they doe approve, if they touch Life and Death, are farther referred to another Jury to be considered of, because the case is of such importance : but others of lighter moment, are upon their allowance, without more worke fined by the Bench, except the party travers the Inditement, or challenge it for insufficiencie, or remove the cause to a higher Court by *Certiorarie*, in which two former cases it is referred to another Iurie, and in the latter transmitted to the higher, *Lamb. Eir. li. 4. ca. 7.* and presently upon the allowance of this Bill by the Grand Enquest, a man is said to be endited. Such as they disallow, are delivered to the Bench, by whom they are forthwith cancelled or torne. The Petit Jury consisteth of twelve men at the least, and are empannelled, as well upon criminall as upon civill causes, those that passe upon offences of Life and Death, doe bring in their verdict either *guiltie* or not *guiltie*, whereupon the Prisoner, if hee

be found guiltie, is said to be convicted, and so afterward receiveth his judgement, and condemnation : or otherwise is acquitted and set Free : Of this reade *Fortesc. cap. 27.* those that passe upon civill causes reall, are all, or so many as can conveniently be had, of the same Hundred, where the land or tenement in question doth lie, and foure at the least. And they upon due examination bring in their verdict either for the Demandant, or Tenant. Of this see *Fortescue, cap. 25, 26.* according unto which, judgement passeth afterward in the Court where the cause first began : and the reason heereof is, because these Justices of Assise, are in this case, for the ease of the Country, onely to take the verdict of the Jury, by the vertue of the writ called (*Nisi prius*). and so returne it to the Court where the cause is depending. See (*Nisi prius.*) Joynt with this the chapter formerly cited out of the Customarie of *Normandie* : and that of King *Etheldreds* lawes, mentioned by Master *Lamberd*, verbo *Centuria*, in his explication of Saxon words. And by these two words you shall perceive, that as well among these *Normans*, as the *Saxons*, the men of this Jury were Associates and Assistants to the Judges of the Court, in a kind of equalitie ; whereas,

now adayes they attend them in great humilitie, and are, as it were, at their command for the service of the Court : the words set downe by *M. Lamberd* are these : *In singulis centuriis comitia sunt, atq; libere conditionis viri duodecim astate superiores, nudi cum prepositis sacra tenentes, jurant, se adeo virum aliquem innocentem haud condemnaturos, sententiae absoluturos* : to this joyne also the 69. chapter of the said Customarie. See *Enquest.* See 12. *Mon.* See *Lamberds Eirenarch. lib. 4. cap. 3. pag. 384.*

Juris utrum, is a writ, that lyeth for the incumbent, whose predecessour hath alienated his lands or tenements ; the divers uses of which writ, see in *Fitzh. nat. br. fol. 48.*

Jurisdiction (*Jurisdicctio*) is a dignitie which a man hath by a power to doe Justice in causes of Complaint made before him. And there be two kinds of Jurisdiction, the one that a man hath by reason of his see, and by vertue thereof doth right in all plaints concerning his see : The other is a Jurisdiction given by the Prince to a Bayliffe : this division I have in the Customarie of *Normandie*, cap. 2. which is not unfit for the practise of our Common wealth, for by him whom they call a Bayliffe, wee may understand all that have

commission from the Prince to give judgement in any cause: The Civilians divide *jurisdictionem* generally underſtand in *imperium & jurisdictionem*: and *imperium in merum & mixtum*. Of which you may reade many eſpeciall tractats written of them, as a matter of great difficultry and importance.

Justes, commeth of the French (*Jouſtes*.i. *decuſus*) and ſigniſieth with us, contentions betweene Martiall men by ſpeares on horſbacke, anno 24. H. 8. cap. 13.

Justice (*Justiciarius*) is a French word, and ſigniſieth him that is deputed by the King to doe right by way of judgement: the reaſon why he is called *Justice*, and not *Judex*, is becauſe in ancient time the latine word for him was (*Justitia*) and not (*Justiciarius*) as appeareth by *Glaw.* lib. 2. cap. 6. *Roger Hoveden part. poſter. ſuorum annalium*, fol. 413. a. and divers other places, which appellation wee have from the Normans, as appeareth by the Grand Cuſtumarie, cap. 3. And I doe the rather note it, becauſe men of this function ſhould hereby conſider, that they are or ought to be, not (*Juſti*) in their judgements, but in abſtract (*ipſa juſtitia*) howbeit I hold it well, if they perſorme their office in *concreto*. Another reaſon why they are called *Justiciarii* with us, and not

Judices, is, becauſe they have their authoritie by deputation, as Delegates to the King, and not *jure magistratus*; and therefore cannot depute others in their ſtead, the Juſtice of the Foreſt onely excepted, who hath that libertie eſpecially given him by the ſtatute, anno 32. H. 8. cap. 35. for the Chancellor, Marshall, Admirall, and ſuch like are not called *Justiciarii*, but *Judices*: of theſe Juſtices you have divers ſorts in England, as you may perceiue here following. The manner of creating theſe Juſtices, with other appertinances, reade in *Fortescu.* cap. 51.

Justice of the Kings bench (*Justiciarius de Banco Regis*) is a Lord by his Office, and the chiefe of the reſt; wherefore he is alſo called *Capitalis Justiciarius Anglie*: his Office eſpecially is to heare and determine all plees of the crowne: that is, ſuch as concerne offences committed againſt the crowne, dignitie, and peace of the King; as treaſons, felonies, mayhems, and ſuch like, which you may ſee in *Bracton lib. 3. tractat. 2. per totum*: and in *Stawns. treatiſe* intituled, *The plees of the Crowne*, from the firſt chapter to the fiſtie one of the firſt Booke. But either it was from the beginning, or by time is come to paſſe: that he with his Aſſiſtants, heareth all perſonall actions, and

reall also, if they be incident to any personall action depending before them: See *Cromptons jurisd.* fol. 67. &c. Of this Court *Bracton lib. 3. cap. 7. nu. 2.* saith thus: *Placita vero civitatis in rem & personam in Curia domini Regis terminanda, coram diversis Justiciariis terminantur: Habet enim plures curias in quibus diverse actiones terminantur; & illarum curiarum habet unam propriam, sicut aulam regiam, & justiciarios capitales qui proprias causas Regis terminant, & aliorum omnium per querelam vel per privilegium sive libertatem; ut si sit aliquis qui implacitari non debeat, nisi coram domino Rege.* This Justice (as it seemeth) hath no patent under the broad Seale. For so *Crompt.* saith, *ubi supra.* He is made onely by Writ, which is a short one to this effect; *Regina Johanni Popham militi salutem. Sciatis quod constituimus vos Justiciarium nostrum capitalem, ad placita coram nobis terminandum, durante beneplacito nostro, Teste, &c.* And *Bracton* in the place now recited, speaking of the Common Plee, saith, that *Sine Warranto jurisdictionem non habet*, which (I thinke) is to be understood of a Commission under the great Seale. This Court was first called the Kings Bench, because the King sate as Judge in it in his proper Person, and it was moveable with the Court. See *anno*

9. H. 3. cap. 11. more of the jurisdiction of this Court, see in *Crompton ubi supra.* See *Kings Bench.* The oath of the Justices see in the statute, *anno 18. Ed. 3. stat. 4.* See *Oath.*

Justice of common ples (*Justiciarius communium placitorum*) is also a Lord by his Office, and is called (*Dominus Justiciarius communium placitorum*) and he with his assistants originally did heare and determine all causes at the Common law, that is, all civill causes betweene common persons, as well personall as reall, for which cause it was called the Court of Common Plee, in opposition to the Plee of the Crowne, or the Kings Plee, which are speciall and appertaining to him onely. Of this, and the jurisdiction heereof, see *Cromptons jurisdiction.* fo. 91. This Court was alwayes setled in a place, as appeareth by the statute *anno 9. H. 3. cap. 11.* The oath of this Justice and his Associates, see *anno 18. Ed. 3. Stat. 4.* See *Oath.*

Justice of the Forest (*Justiciarius Forestæ*) is also a Lord by his Office, and hath the hearing and determining of all offences within the Kings Forest, committed against Venison or Vert; of these there bee two, whereof the one hath jurisdiction over all the Forests on this side *Trent*:

the other of all beyond. The chiefest point of their Jurisdiction, consisteth upon the articles of the Kings Charter, called *Charta de Foresta*, made anno 9. H. 3. which was by the Barons hardly drawne from him, to the mitigation of over cruell ordinances made by his predecessors. Reade *M. Camdens Britan. pag. 214.* See *Protoforestarius*. The Court where this Justice sitteth and determineth, is called the Justice seate of the Forest, held every three yeares once, whereof you may reade your fill in *M. Manwoods* first part of Forest lawes, pag. 121. & 154. & pag. 76. Hee is sometimes called Justice in Eyre of the Forest. See the reason in *Justice in Eyre*. This is the onely Justice that may appoint a Deputy *per statutum*, anno 32. H. 8. cap. 35.

Justices of Assise (*Justiciarii ad capiendas Assisas*) are such as were wont by speciall Commission to be sent (as occasion was offered) into this or that County to take Assises: the ground of which polity, was the ease of the Subjects: For whereas these actions passe alway by Jury, so many men might not without great hinderance be brought to London, and therefore Justices for this purpose were by Commission particularly authorised, and sent downe to them. And it may

seeme that the Justices of the Common Plees had no power to deale in this kinde of businesse, untill the Statute made anno 8. Richard. 2. cap. 2. for by that they are enabled to take Assises, and to deliver *Griots*. And the Justices of the Kings Bench have by that Statute such power affirmed unto them, as they had one hundred yeares before that: Time hath taught by experience, that the better sort of Lawyers being fittest both to judge and to plead, may hardly be spared in terme time to ride into the Countrey about such businesse: and therefore of later yeares it is come to passe, that these Commissions (*ad capiendas Assisas*) are driven to these two times in the yeare out of terme, when the Justices and other may be at leasure for these Controversies also: whereupon it is also fallen out, that the matters wont to bee heard by more generall Commissions of Justices in Eyre, are heard all at one time with these Assises: which was not so of old, as appeareth by *Bracton, lib. 3. ca. 7. nu. 2. Habet etiam Justiciarii itinerantes de comitatu in Comitatum, quandoq; ad omnia placita, quandoq; ad quodam specialia; sicut Assisar &c. & ad Gaolas deliberandas, quandoq; ad unicam vel duas, & non plures.* And by this meanes the Justices of both Benches, being justly to be accounted

ted the fittest of all others, and others their Assistants, as also the Sergeant at law may be employed in these affaires, who as gravest in yeares, so are they ripest in judgement, and therefore likeliest to be void of partialitie, for being called to this dignitie, they give over practice, *anno 8. R. 2. cap. 3.* but this alway to be remembered, that neither Justice of either Bench, nor any other may be Justice of Assise in his owne Country, *anno 8. R. 2. cap. 2. & anno 33. H. 8. cap. 24.* Lastly, note that in these dayes, though the selfe same neede dispatch businesse of so divers natures, and all at one time, which were wont to be performed by divers, and at severall times, yet they doe it by severall Commissions, *Comptons Jurisdictions*, fol. 210. For those who be in one word called Justices of Circuit, and twice every yeare passe, by two and two, through all England, have one Commission to take Assises, another to deliver Goales, another of Oyer and Terminer. That Justices of Assise, and Justices in Eyre did anciently differ, it appeareth *anno 27. Ed. 3. cap. 5.* and that Justices of Assise, and Justices of Goale delivery were divers, it is evident by *anno 4. Ed. 3. cap. 3.* The oath taken by Justices of Assise, is all one with the oath taken by the Justices of the Kings

Bench. *Old abridgement of Statutes, titulo Sacramentum Justiciariorum.* See Oath.

Justices of Oyer and Terminer, (*Justiciarii ad audiendum & Terminandum*) were Justices deputed upon some especiall or extraordinary occasion, to heare and determine some or more causes. *Fitzherbert* in his *natura brevium* saith, that the Commission d'Oyer and Terminer, is directed to certaine persons upon any great assembly, insurrections, hainous demeanure, or trespassse committed. And because the occasion of granting this commission should be maturely weighed, is provided by the statute *anno 2. Ed. 3. cap. 2.* that no such commission ought to be granted, but that they shall be dispatched before the Justices of the one Bench or other, or Justices errants, except for horrible trespassses, and that by the especiall favour of the King. The forme of this commission, see in *Fitzh. natur. brev.* fol. 110.

Justices in Eyre (*Justiciarii itinerantes*) are so termed of the French (*Eyre. i. iter*) which is an old word, as (*a grand erre. i. magnis itineribus*) proverbially spoken, the use of these in ancient time, was to send them with Commission into divers Counties, to heare such causes especially, as were termed the

Plees of the Crowne, and therefore I must imagine they were so sent abroad for the ease of the Subjects, who must else have beene hurried to the Kings Bench, if the cause were too high for the County Court. They differed from the Justices of Oyer and Terminer, because they (as is above-said) were sent upon some one, or few especiall cases and to one place: whereas the *Justices in Eyre*, were sent through the Provinces and Counties of the land, with more indefinite and generall Commission, as appeareth by *Brañon, lib. 3. cap. 11, 12, 13.* and *Britton, cap. 2.* And againe they seeme to differ in this, because the Justices of Oyer and Terminer, (as it is before said) were sent uncertainly, upon any uproare or other occasion in the country: but these in Eyre (as *M. Gwin* setteth downe in the Preface to his Reading, were sent but every seven yeare once; with whom *Horn* in his *mirrour of Justices*, seemeth to agree, *lib. 2. cap. quenez point estre actors, &c.* and *lib. 2. ca. des peches criminels, &c.* al *suyte de Roy, &c.* and *li. 3. ca. de Justices in Eyre*: where hee also declareth what belonged to their office. These were instituted by Henry the 2. as *M. Camden* in his *Britannia* witnesseth *pa. 104.* And *Roger Hoveden, parte poste-*

ri. annalium. fol. 313. b. hath of them these words: *Justiciarii itinerantes constituti per Henricum secundum. i. qui divisit regnum suum in sex partes, per quarum singulas tres Justiciarios itinerantes constituit, quorum nomina hec sunt, &c.*

Justices of Gaol delivery (*Justiciarii ad Gaolas deliberandas*) are such as are sent with Commission, to heare and determine all causes appertaining to such, as for any offence are cast into the Gaol, part of whose authoritie is, to punish such, as let to Mainprise those prisoners, that by law be not baileable by the statute *de finibus, cap. 3. Fitz. nat. br. fol. 151. I.* These by likelihood in ancient time, were sent to Countries upon this severall occasion. But afterward Justices of Assise were likewise authorized to this, *anno 4. Ed. 3. cap. 3.* Their oath is all one with other of the Kings Justices of either Bench, *Old Abridgement of Statutes, titulo Sacramentum Justiciariorum.* See *Othe.*

Justices of labourers, were Justices appointed in those times, to redresse the frowardnesse of labouring men, that would either be idle, or have unreasonable wages. See *anno 21. Edwardi 3. cap. primo. anno 25. ejusd. cap. 8. & anno 31. ejusdem cap. 6.*

Justices of Nisi prius, are all one now adayes with Justices of Assises: for it is a common Adjournment of a cause, in the Common Pleees to put it off to such a day, *Nisi prius Justicarii venerint ad eas partes, ad capiendas Assisas*: and upon this clause of Adjournment, they are called Justices of *Nisi prius*, as well as Justices of Assises; by reason of the writ or action that they have to deale in: their commission you may see in *Cromptons Jurisdictiones*, fol. 204. yet *M. Crompton* maketh this difference betweene them, because Justices of Assise have power to give judgement in a cause, but Justices of *Nisi prius*, onely to take the verdict. But in the nature of both their functions this seemeth to be the greatest difference, because Justices of *Nisi prius* have to deale in causes personall as well as reall, whereas Justices of Assise, in strict acception, deale onely with the possessory writs called *Assises*.

Justices of triall baston, aliàs *trayl baston*, were a kind of Justices appointed by King Edward the first upon occasion of great disorder growne in the Realme, during his absence in the *Scottish* and *French* warres, they are called in the *Old nat. brev.* fo. 52. Justices of triall *Baston*, but by *Holyn-*

shed and Stow, *Ed. pri.* of Traile baston, of trailing or drawing the staffe, as *Holynshed* saith: Their office was to make inquisition through the Realme by the verdict of substantiall Juries upon all officers, as Majors, Sheriffes, Bailiffes, Escheators and others, touching extortion, briberies and other such grievances, as intrusions into other mens lands, and Barratours that used to take money for beating of men, and also of them whom they did beate: by meanes of which inquisitions many were punished by death, many by ransome, and so the rest flying the Realme, the land was quieted, and the King gained great riches toward the supporting of his wars. Inquire farther of the name. *Baston* is thought by some to be the beame of a paire of Scoales or Weights: And this is in this place metaphorically applied to the just peising of recompence for offences committed. My poore opinion is, that the etymologie of this title or addition groweth from the French (*Treilles*) i. *cancelli*, bars or letises of what thing soever, a grate with crosse bars, or of the singular (*Tresle*) i. *parcull*, an house arbour, a raile or forme, such as vines run upon, and (*Baston*) a staffe or pole, noting thereby, that the Justices employed in this Commission, had authority

thoritic to proceede without any solemne Judgement Seate in any place either compassed in with railes, or made Booth or Tent-wise, set up with staves or poales without more worke, wheresoever they could apprehend the malefactors they sought for. See *libro Assisarum, folio 57. 141.*

Justices of Peace (*Justiciarii ad pacem*) are they that are appointed by the Kings Commission, with others to attend the peace of the Countie where they dwell: of whom some upon speciall respect are made of the *Quorum*, because some businesse of importance may not be dealt in without the presence or assent of them, or one of them. Of these it is but folly to write more, because they have so many things pertaining to their Office, as cannot in few words be comprehended. And againe Justice *Fitzherbert* sometime sithence, as also *Master Lambard* and *Master Crompton* of late have written Bookes of it to their great commendation, and fruitfull benefit of the whole Realme. See also *Sir Thomas Smith de reipub. Anglorum lib. 2. cap. 19.* They were called *Gardians* of the Peace, untill the 36. yeare of King *Edward the third, cap. 12.* where they be called *Justices.* *Lamb. Eirenarcha lib. 4. cap. 19.*

bag. 578. Their oath see also in *Lambard lib. 1. cap. 10.*

Justices of Peace, &c. within Liberties, Justiciarii ad pacem infra libertates, be such in Cities and other Corporate Townes, as those others be of any County, and their authoritie or power is all one within their severall precincts, *Anno 27. H. 8. cap. 25.*

Justices, is a Writ directed to the Sheriffe, for the dispatch of Justice in some especiall cause, wherewith of his owne authority he cannot deale in his Countie Court, *lib. 12. cap. 18.* whereupon the Writ *de Excommunicato deliberando,* is called a *Justices* in the *Old natura brev. fol. 35.* Also the Writ, *de homine replegiando eodem fol. 41.* Thirdly, the Writ, *de secunda superoneracione pastura, eodem fol. 73.* *Kitchin fol. 74.* saith, that by this Writ called *Justices,* the Sheriffe may hold plee of a great summe, whereas of his ordinary authoritie he cannot hold plees but of summes under fortie shillings. *Crompton fol. 231.* agreeth with him. It is called a *Justices,* because it is a Commission to the Sheriffe *ad Justiciandum aliquem,* to doe a man right, and requireth no returne of any certificate of what hee hath done. *Bracton lib. 4. tract. 6. cap. 13. num. 2.* maketh mention of a *Justices* to the Sheriffe of London, in a case

case of *Dower*. See the new booke of *Entries*, *Justices*.

Justification (*justificatio*) is an upholding or shewing a good reason in Court, why he did such a thing as he is called to answer, as to justify in a cause of *Replevin*. *Broke, titulo Replevin.*

K E

Keeper of the great Seale (*Custor Magni Sigilli*) is a Lord by his Office, and called Lord-Keeper of the great Seale of England, &c. and is of the Kings privie Councell, under whose hands passe all Charters, Commissions, and Grants of the King strengthened by the great or broad Seale. Without the which Seale, all such Instruments by Law are of no force; for the King is in interpretation and intendment of Law, a Corporation, and therefore passeth nothing firmly, but under the said Seale. This Lord Keeper by the Statute *anno 5. Elizab. cap. 18.* hath the same and the like place, authoritie, preheminance, jurisdiction, execution of Lawes, and all other Customes, Commodities, and advantages, as hath the Lord Chancellor of England for the time being.

Keeper of the privy Seale (*Custor privati Sigilli*) is a Lord by his office, under whose hands passe all Charters signed by the Prince,

before they come to the broad or Great Seale of England. Hee is also of the Kings privy Councell. Hee seemeth to bee called Clerke of the privy Seale, *anno 12. Rich. 2. cap. 11.* But of late dayes I have knowne none to beare this Office, by reason the Prince thinketh good, rather to keepe this Seale in his owne hands, and by private trust to commit it to his principall Secretary, or some such one of his Councell as hee thinketh fit for that function.

Keeper of the Touch, *anno 2. H. 6. cap. 14.* seemeth to be that Officer in the Kings Mint, which at this day is termed the Master of the Assay. See *Mint*.

Keeper of the Forest (*Custos Forestie*) is also called chiefe Warden of the Forest, *Mannwood parte pri.* of his Forest lawes, *pag. 156. &c.* and hath the principall government of all things belonging thereunto: as also the check of all officers belonging to the Forest. And the Lord Chiefe Justices in Eyre of the Forest, when it pleaseth him to keepe his Justice Seate, doth forty dayes before, send out his generall Summons to him, for the warning of all under-officers, to appeare before him at a day assigned in the Summons. This see in *Mannwood ubi supra.*

King (*Rex*) is thought by *M. Cam-*

Camden in his *Britan.* pag. 105, to be contracted of the Saxon word *Cyninge*, signifying him that hath the highest power and absolute rule over our whole land: and thereupon the King is in intendment of law cleared of those defects that common persons bee subject unto. For he is alwayes supposed to bee of full age, though he bee in yeares never so young: *Cromptons Jurisdiction* fol. 134: *Kitchin* fol. 1. Hee is taken as not subject unto death, but is a Corporation in himselfe that liveth ever. *Crompton ibidem.* Thirdly, hee is above the law by his absolute power, *Bracton lib. 1, cap. 8.* *Kitchin* fol. 1. And though for the better and equall course in making Lawes, he doe admit the three Estates, that is, Lords Spirituall, Lords Temporall, and the Commons unto counsell, yet this in divers learned mens opinion, is not of constraint, but of his owne benigntie, or by reason of his promise made upon oath at the time of his coronation. For otherwise were hee a subject after a sort, and subordinate, which may not be thought without breach of duty and loyalty. For then must wee deny him to bee above the law, and to have no power of dispensing with any positive law, or of granting especiall priviledges and Char-

ters unto any, which is his onely and cleare right, as Sir *Thomas Smith* well expresseth, *lib. 2, ca. 3, de Repub. Anglica.* and *Bracton, lib. 2, cap. 16, num. 3.* and *Britton ca. 39.* For he pardoneth life and limme to offendours against his Crowne and Dignity, except such as hee bindeth himselfe by oath not to forgive. *Stamf. Pl. Cor. lib. 2, cap. 35.* And *Habet omnia jura in manu sua, Bracton li. 2, ca. 24, nu. prim.* And though at his coronation he take an Oath, not to alter the lawes of the land, yet this oath notwithstanding he may alter, or suspend any particular law that seemeth hurtfull to the publike Estate. *Blackwood in Apologia Regum, ca. 11.* See *Oath of the King.* Thus much in short, because I have heard some to bee of opinion, That the Lawes bee above the King. But the Kings Oath of old you may see, in *Bracton, li. 3, ca. 9, nu. 2.* for the which looke in *Oath of the King.* The Kings oath in English you may see in the old Abridgement of Statutes, *titulo Sacram. Regie.* Fourthly, the Kings onely testimony of any thing done in his presence, is of as high nature and credit as any Record. Whence it commeth, that in all writs or precepts sent out for the dispatch of justice, he useth none other witness but himselfe, alwayes using these

these words under it, *Teste me ipso*. Lastly, he hath in the right of his Crowne many Prerogatives above any common person, be he never so potent or honorable: whereof you may reade your fill in *Stawnfords* Tractate upon the Statute thereof made, anno 17. Ed. 2. though that containe not all by a great number. What the Kings power is, reade in *Bracton*. lib. 2. cap. 24. nu. pri. & 2.

King of Herald (*Rex Haraldorum*) is an Officer at Armes, that hath the preeminence of this Societie. See *Herald*. This Officer of the Romanes was called *Pater Patratus*.

Kings Bench (*Bancus Regium*) is the Court or Judgement Seare where the King of England was wont to sit in his owne person: and therefore was it moveable with the Court or Kings Houehold. And called *Curia domini Regis*, or *Aula Regia* as Master *Gwin* reporteth in the Preface to his Readings; and that in that and the Exchequer, which were the onely Courts of the King, untill *Henry* the Thirds dayes, were handled all matters of Justice, as well Civill as Criminall; whereas the Court of Commou Plees might not be so by the Statute: anno 9. H. 3. cap. 11. or rather, by Master *Gwins* opinion, was presently upon the grant of the great Charter severally erected.

This Court of the Kings bench was wont in ancient times to be especially exercised in all Criminall matters and Plees of the Crowne, leaving the handling of private contracts to the County Court. *Glanvil*. lib. 1. cap. 2, 3, 4. & lib. 10. cap. 18. *Smith de Repub. Anglicana*, lib. 2. cap. 11. and hath President of it, the Lord Chiefe Iustice of England, with three or foure Iustices assistants, foure or five as *Fortescu* saith, cap. 51. and Officers therunto belonging, the Clerke of the crowne, a *Prenatory*, or *Protototarie*, and other fixe inferior Ministers or Attornies. *Camb. Britan.* pag. 112. See *Lan.* How long this Court was moveable, I find not in any Writer: But in *Brittons* time, who wrote in K. Ed. the 1. his dayes, it appeareth it followed the Court, as *M. Gwin* in his said preface well observeth out of him. See *Justice of the Kings Bench*.

Kings silver, is properly that modey, which is due to the King in the Court of common Plees, in respect of a licence there granted to any man for passing a fine. *Coke* vol. 6. fol. 39. a. & 43. b.

Kintall of woad, iron, &c. is a certaine waight of Merchandize, to the valew of an hundred, or something under or over, according to the divers uses of sundry nations. This word is mentioned by

by *Plowden* in the case of *Reniger* and *Fogossa*.

Knave is used for a man-servant anno 14 *Edw.* 3, statute 1, ca. 3. And by *M. Verstigans* judgement, in his restitution of decayed intelligence, ca. 10, is borrowed of the Dutch *cnapa*, cnave or knave, which signifie all one thing. And that is some kind of officer or servant: as *scild-knapa* was hee that bore the weapon or shield of his superiour, whom the Latines call *Armigerum*; and the French men, *Escuyer*.

Knight (*miles*) is almost one with the Saxon *Cnight*, i. *administer*; and by *M. Camdens* judgement, pag. 110, derived from the same. With us it signifieth a Gentleman, or one that beareth arms, that for his vertue, and especially marshall prowess, is by the King, or one having the Kings authority, singled (as it were) from the ordinary sort of Gentlemen, and raised to a higher account or step of dignity. This among all other Nations, hath his name from the Horse: because they were wont in ancient time to serve in warres on horsebacke. The Romans called them *Equites*, the Italians at these dayes terme them *Cavallieri*. The French men *Chevalliers*. The German, *Reiters*. The Spaniard, *Cavalleros*, or *Varones à Cavallo*. It appeareth by the statute, anno 1,

Ed. 2. cap. 1. that in ancient times, Gentlemen having a full Knights fee, and holding their land by Knights service, of the King, or other great person, might be urged by distresse, to procure him'selfe to bee made Knight, when hee came to mans estate for the answerable service of his Lord in the Kings wars. To which point you may also reade *M. Camden* in his *Britan.* pag. 111. But these customes be not now much urged: this dignity in these dayes being rather of favour bestowed by the Prince upon the worthier sort of Gentlemen, then urged by constraint. The manner of making Knights (for the dignitie is not hereditarie) *M. Camden* in his *Britan.* pag. 111. shortly expresseth in these words: *Nostris vero temporibus, qui Equestrum dignitatem suscipit, flexis genibus educto gladio leviter in humero percutitur. Princeps his verbis Gallice affatur: Sus vel sois Chevalier au nom de Dieu. id est. Surge, aut, Sis Eques in nomine Dei.* The Solemnitie of making Knights among the Saxons, *M. Stow* mentioneth in his *Annals*, pag. 159. See the priviledges belonging to a Knight in *Ferns Glorie of Generositie*, pag. 116. Of these Knights there be two sorts: one Spirituall, another Temporall. *Cassanew* in *gloria mundi*, parte 9. *Considerat.* 2. of both these sorts,

and of many subdivisions, read him in that whole part. The Temporall, or second sort of Knights *M. Ferne* in his *Glory of generositie*, pag. 103. maketh threefold here with us. Knights of the Sword, Knights of the Bath, and Knights of the Sovereaine Order, that is, of the Garter: of all which you may read what hee saith. I must remember that mine intent is but to explaine the termes especially of our common Law. Wherefore such as I find mentioned in Statutes, I will define as I can. *M. Skene de verbor. significat. verbo Milites*, saith, that in the ancient Lawes of Scotland, Freeholders were called *Milites*, which may seeme to have beene a custome with us also by divers places in *Bracton*, who saith, that Knights must be in Juries, which turne Freeholders do serve.

Knights of the Garter (*Equites Garterii*) are an Order of Knights, created by *Edward* the third, after hee had obtained many notable victories (*King John* of France, and *King James* of Scotland being both his prisoners together; and *Henry* of Castile the Bastard expelled out of his Realme, and *Don Pedro* being restored unto it by the Prince of Wales, and Duke of Aquitaine, called the Blacke Prince) who for furnishing of this Honorable

Order, made a choice out of his owne Realme, and all Christendome, of the best, and most excellent renowned Knights in Vertues and Honour, bestowing this dignitie upon them, and giving them a Blew Garter, decked with Gold, Pearle, and precious stones, and a Buckle of Gold to weare daily on the left legge onely, a Kirtle, Crowne, Cloake, Chaperon, a Coller, and other stately and magnificall apparell, both of stufte and fashion, exquisite and heroicall, to weare at high Feasts, as to so high and Princely an Order was meet. Of which order, hee and his successors, Kings of England, were ordained to be the Sovereignes, and the rest fellows and brethren to the number of twentie fixe, *Smith de Repub. Anglo. lib. prim. cap. 23.* I have seen an ancient monument, whereby I am taught that this Honorable Company is a Colledge or a Corporation, having a common Seale belonging unto it, and consisting of a Sovereaigne Gardian, which is the King of England, that alwayes governs this order by himselfe or his Deputy, of twenty five Companions called Knights of the Garter, of foureteen secular Chanons that be Priests, or must be within one yeere after their admission: 13. Vicars also Priests, and 26. poore Knights, that have

have no other sustenance or meanes of living but the allowance of this house, which is given them in respect of their daily Prayer to the Honour of God, and (according to the course of those times) of Saint *George*. There be also certain officers belonging to this order, as namely, the Prelate of the *Gar*ter, which office is inherent to the Bishop of *Winchester*, for the time being, the Chancellor of the *Gar*ter, the *Register*, who is alwaies Deane of *Windsor*. The principall King at *Armes* called *Gar*ter, whose chiefe function is to mannage, and marshall their Solemnities at their yearely Feasts and installations. Lastly, the Usher of the *Gar*ter, which (as I have heard) belongeth to an Usher of the *Princes chamber*, called *Blacke red*. There are also certaine ordinances or Constitutions belonging unto this Societie, with certaine forfeitures, and sometime penances for the breakers of them; which constitutions concerne either the Solemnities of making these Knights, or their duties after their creation, or the Priviledges belonging to so high an order, but are too large for the nature of this poore *Vocabularie*. The site of this Colledge, is the Castle of *Windsor*, with the Chapel of *Saint George*, erected by *Edmund the Third*,

and the Chapter house in the said Castell. Howbeit the yearely Solemnitie or Profession may be, and is, by the Soveraignes direction, performed at the Court, wheresoever it lyeth, upon Saint *Georges* day. *Master Cambrden* saith, that this order received great ornament from *Edward the fourth*. See *M. Fynes* glorie of Generositie, pag. 120. See *Gar*ter. *Hospinian* in his booke *de origine & progressu Monachatus*, maketh mention of this honourable order, terming it by ignorance of our tongue *ordinem Carteriorum equitum*; and *Charteriorum equitum*; which you may reade, cap. 307. as also *Bernardus Girardus* in his historie, lib. 15. cap. 185.

Knights of the Bath (*militēs balnei, et de balneo*) are an order of Knights made within the Lifts of the *Bath*, girded with a Sword, in the ceremonie of his creation. *Fynes* glorie of generositie, pag. 105. These are spoken of, anno 8. *Edw.* 4. cap. 2. But I had an old Monument lent mee by a friend, whereby it appeareth, that these Knights were so called of a *Bath*, into the which (after they had beene shaven and trimmed by a Barber) they entered, and thence, the night before they were Knighted, being well bathed, were taken againe by two Esquiers

commanded to attend them, dried with fine linnen cloathes, and to apparelled, and led through many solemne ceremonies, viz. confessing their sinnes, watching and praying all night in a church or Chappell, with many other, to the order of Knighthood the next day. So that by the same reason these seemed to be tearmed Knights of the Bath, by which Knights made out of the field in these dayes are called Knights of the Carpet, because in receiving their Order, they commonly kneele upon a carpet.

Knights of the Order of S. John of Jerusalem (*Milites Sancti Johannis Hierosolymitani*) were otherwise called Knights of the Rhodes: beeing an Order of Knighthood that had beginning about the year of the Lord 1120, *Honorius* then Pope of Rome: *Cassanem, de Gloria Mundi, parte 9, Consideratione 4.* And Master Ferne in his *Glory of Generosity, pag. 127.* They had their primary foundation and chiefe aboade first in Hierusalem, and then in Rhodes, where many of them lived under their Principall, called the Master of Rhodes, untill they were expelled thence by the Turke, Anno 1523. Sithence which time their chiefe Seat is at Malta, where they have done great exploits against the Infidels,

but especially in the year 1595. These, though they had their beginning and especiallest aboade first at Hierusalem, and next in Rhodes, yet they increased both in number and revenues, living after the Order of Friars under the rule of Saint *Augustine*, and were dispersed into France, Spain, Alverne, Campany, England and Ireland. Of these mention is made in the statute, *Anno 25, Hen. 8, ca. 2.* and *anno 26 ejusdem ca. secundo.* And it appeareth that they in England had one generall Prior, that had the government of the whole Order within England and Scotland, *Regist. orig. fo. 20, b.* But toward the end of Henry the eightes dayes, they in England and Ireland being found overmuch to adhere to the Bishop of Rome against the King, were suppressed, and their lands and goods referred by Parliament to the Kings disposition, *anno 32 Hen. 8, ca. 24.* The occasion & the propagation of this order more especially described, you may read in the treatise intituled the book of *Honor and Armes, li. 5, ca. 18,* written by Master Richard *Johnes.*

Knights of the Rhodes, an. 32 H. 8 ca. 24. See *Knights of the order of S. John.*

Knights of the Temple (otherwise called *Templers*) *Templarii*

plarii was an Order of Knight-hood, created by *Gelasius* the Pope, about the yeare of our Lord, 1117. and so called, because they dwelt in a part of the buildings belonging to the Temple. These in the beginning dwelling not farre from the Sepulchre of the Lord entertained Christian strangers and Pilgrims charitably, and in their Armour ledde them through the Holy Land, to view such things, as there were to be seene, without feare of Infidells adjoyning. This Order continuing and increasing by the space of 200. yeares, was farre spread in Christendome, and namely here in England. But at the last, the chiefe of them at *Hierusalem*, being (as some men say) found to fall away to the *Sarazens* from Christianity, and to abound in many vices, the whole Order was suppressed by *Clemens quintus*, which was about King *Ed.* the 1. dayes, and their substance given partly to the Knights of the Rhodes, and partly to other Religious. *Cassian. de gloria mundi, parte 9. Confid. 5.* And see *anno primi. Ed. 1. cap. 24.* Others write that in truth their destruction grew from leaning to the Emperour against the Pope of Rome, whatsoever was pretended. *Joach. & ephraim De jurisdictione. lib. 4. cap. 10. m. 18.* See *Templers.*

Knights of the Shire (Milites Comitatus) otherwise bee called Knights of the Parliament, and bee two Knights, or other Gentlemen of worth, that are chosen in *pleno Comitatu*, by the freeholders of every Countie that can dispend 40. shillings *per annum*, and be Resident in the shire, *anno 10. H. 6. cap. 2 & anno 1. H. 5. cap. 1.* upon the Kings writ, to be sent to the Parliament, and there by their counsell to assist the common proceedings of the whole Realme. These when every man that had a Knights fee, were customarily constrained to bee a Knight, were of necessity to bee *milites gladio cincti*, for so runneth the tenour of the writ at this day. *Cromptons Jurisdic. fol. pri.* But now there being but few Knights in comparison of former times, and many men of great livings in every county, Custome beareth that Esquiers may bee chosen to this office, *anno 23. H. 6. cap. 6.* so that they be resident within the countie, *anno. H. 6. cap. 7. & anno 1. H. 5. cap. prim.* For the observations in choice of these Knights, see the statutes, *anno 7. H. 4. cap. 15. & anno 11. ejusdem. cap. 1. & anno 6. Hen. 6. cap. 4. & anno 23. H. 6. cap. 15.* and the new booke of Entries, *verbo Parliament. m. 1.* Their expences during the Parliament are borne by the Countie

County, anno 35 Henric. 8. cap. 11.

Knight Marshal (*Marescallus hospitii regii*) is an officer in the Kings house, having jurisdiction and cognisance of any transgression within the kings house and Verge, as also of Contracts made within the same house, whereunto one of the house is a party: *Regist. origin. fo. 185, a, b. et fo. 191 b.* whereof you may there read more at large.

Knights fee (*feudum militare*) is so much inheritance as is sufficient yearly to maintaine a Knight with convenient revenue, which in Henry the thirds dayes was fifteene pounds, *Camdeni Britan. pag. 111.* Or 680 Acres of land, or 800 acres, *eodem.* But Sir Thomas Smith in his *Repub. Angl. li. prim. ca. 18.* rateth it at forty pound. And I find in the statute for knights, anno pri. Ed. 2, ca. prim. that such as had twenty pounds in fee, or for terme of life *per annum*, might be compelled to be Knights. Master Stowe in his *Annals, pag. 285.* sayth, that there were found in England at the time of the Conqueror sixty thousand two hundred and eleveu Knights fees: others say 60215, whereof the religious houses before their suppression were possessed of 28015. Knights fee is sometime used for the rent that a Knight paieth for his fee to his Lord, of whome hee

holdeth. And this is an uncertaine summe: some holding by forty shillings the shield, some by twenty shillings, as appeareth by *Bracton lib. 5, tract. prim. ca. 2.*

Knighten gylde, was a Gylde in London consisting of nineteene Knights which King Edgar founded, giving unto them a portion of void ground lying without the walls of the city, now called *Portoken ward*. Stowe in his *Annals, pag. 151.*

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Laborarius, is a writ that lieth against such, as having not wherof to live, do refuse to serve, or for him that refuseth to serve in Summer where he served in Winter, *Orig. Reg. fol. 189 b.*

Laches commeth of the French (*Lascher, i. laxare, or lasche, i. frigidus, ignavus, flaccidus*) It signifieth in our common law, negligence: as no laches shal be adjudged in the heire within age, *Littleton, fo. 136:* and *Old Nat. Brev. fo. 110.* where a man ought to make a thing, and makes it not, I of his laches cannot have an Afsise, but I must take myne Action upon the Case.

Ligon, see *Flotzon*.

Laised lists, an. 1 R. 3, ca. 8.

Land tenent, anno 14 Edw. 3. stat. 1, ca. 3. et anno 23 ejusdem, cap.

cap. 1. & 26. ejusd. stat. 5. cap. 2. See *Terre-tenent*, & anno 12. R. 2. cap. 4. & anno 4. H. 4. cap. 8. It is joyned with this word (*Possessor*) as Synonymon. v. anno 1. H. 6. ca. 5. See *Terre-tenent*.

Lanis de crescentia Wallie traducendis absq; custuma, &c. is a writ that lyeth to the Customer of a Port, for the permitting one to passe over Woolles without Custome, because he hath payd Custome in *Wales* before, Register, fol. 279.

Lapse (*Lapsus*) is a slip or departure of a right of Presenting to a voyde Benefice, from the originall Patron, neglecting to present within six moneths unto the Ordinarie. For wee say, that Benefice is in lapse or lapsed, whereunto hee that ought to present, hath omitted or slipped his opportunitee, anno 13. Elizabeth. cap. 12. This lapse groweth as well the Patron being ignorant of the avoydance, as privie, except onely upon the Resignation of the former Incumbent, or the Deprivation upon any cause comprehended in the Statute, anno 13. Eliz. cap. 12. Panor. in cap. quia diversitatem, num. 7. de concess. prebend. Rebuffin de devolut. in praxi beneficiorum. Lancelotus de collation: lib. 1. Institut. Canon. §. Tempus autem. In which cases the Bishop ought to give notice to the Patron.

Larceny (*Laricinium*) commeth of the French (*Larcen. i. furtum, detractio alicui.*) It is defined by West. parte 2. Sym. titulo Indite-ments, to be theft of personall goods or chatels, in the owners absence: and in respect of the things stollen, it is either great or small. Great Larceny is, wherein the things stolne, though severally, exceed the value of 12. pence, and Petit Larceny, is, when the goods stolne exceed not the value of 12. pence; hitherto M. West. But he differeth from *Bracton*, lib. 3. tract. 2. ca. 32. nu. 1. Of this see more in *Stawnsf. pl. eccr. li. i. ca. 15, 16, 17, 18, 19.*

Lapsite, is compounded of (*lab. i. lex*) and (*sit. i. ruptum*) and signifieth *multam rupte vel violatæ legis*, Lamb. explication of Saxon words, verbo *Mulcta*.

Last, is a Saxon word, signifying a burden in generall, as also particularly a certaine weight: for as we say, a Last of hering, so they say, *Ein last cornes, last wines*, &c. thence commeth Lastage, which see in *Lastage*. A Last of hering containeth ten thousand, anno 31. Ed. 3. stat. 2. cap. 2. A Last of pitch & tarre, or of ashes, containeth 14. barrells, anno 32. H. 8. ca. 14. A Last of hides, anno 1. Jac. cap. 33. containeth 12. dozen of hides or skins.

Latitat, is the name of a writ, whereby all men in personall

actions are called originally to the Kings Bench, *Fitz. nat. brev. fol. 78. M.* And it hath the name from this, because in respect of their better expedition, a man is supposed to lurke, and therefore being served with this writ, he must put in securitie for his appearance at the day, for *Latitare, est se malitiosè occultare animo fraudandi creditores suos agere volentes. l. Fulcinius §. Quid sit latitare. n. Quibus ex causis in possessionem eatur*: But to understand the true originall of this Writ, it is to be knowne, that in auncient time, whilest the Kings Bench was moveable, and followed the Court of the King, the custome was, when any man was to be sued, to send forth a Writ to the Sheriffe of the County where the Court lay, for the calling him in: and if the Sheriffe returned, *Non est inventus in baliva nostra, &c.* then was there a second writ procured forth, that had these words, (*Testatum est eum latitare, &c.*) and thereby the Sheriffe willeth to attach him in any other place where he might be found. Now when the tribunall of the Kings Bench came to be settled at *Westminster*, the former course of writ was kept for a long time, first sending to the Sheriffe of *Middlesex* to summon the partie, and if hee could not be found there,

then next to apprehend him wheresoever. But this seeming too troublesome for the subject, it was at last devised, to put both these writs into one, and so originally to attach the partie complained of upon a supposall or fiction, that hee was not within the Countie of *Middlesex*, but lurking elsewhere, and that therefore hee was to be apprehended in any place else, where he was presumed to lye hidden, by a writ directed to the Sheriffe of the Countie where hee is suspected to be. And by this writ a man being brought in, is committed to the Marshall of that Court, in whose custodie when he is, then by reason he is in the same Countie where the Kings Bench is, he may be sued upon an action in that Court, whereas the originall cause of apprehending him, must be a pretence of some deceit or contempt committed, which most properly of old belonged to the cognizance of that Court. I have been informed, that the bringing of these actions of Trespassè so ordinarily to the Kings Bench was an invention of Councillers, that becauie onely Sergeants may come to the Common plees Barre, found a meanes to set themselves on worke in that Court. The forme of this writ is such: *Jacobus Dei gratia Anglia, Francie, Scotia, & Hibernia*

bernia Rex, fidei defensor, &c. Vicecomiti Cantabrigie salutem. Cum Vicecomiti nostro Middlesexia nuper praeceperimus, quod caperet Thomam T. & Willelmum W. si inventi fuissent in balliva sua, & eos salvo custodiret, ita quod haberet corpora eorum coram nobis apud Westmynster die veneris proximo post octavas Sancte Trinitatis, ad respondendum Roberto R. de placito transgressionis, cumq; vicecomes noster Middlesexie, ad diem illum nobis retinuerit, quod predicti Thomas T. & Willelmus W. non sunt inventi in balliva sua, super quo ex parte predicti Roberti in curia nostra coram nobis sufficienter testatum est, quod predicti Thomas & Willelmus latitant & discurrunt in comitatu tuo. Idcirco tibi praecipimus quod c. pias eos, si inventi fuerint in balliva tua, & eos salvo custodias, ita quod habeas corpora eorum coram nobis apud Westmynster, die Martis proximo post tres septimanas, eodem Trinitatis, ad respondendum prefato Roberto de placito predicto, & habeas ibi nunc hoc breve. Teste Johanne Popham apud Westmynster. Roper.

Launcegay, anno 7. Ric. secundi, cap. 13.

Law (lex) commeth of the Saxons (lab) the generall signification is plaine, onely this I thought to note, that the law of this land

hath been variable. For first Dunwallo Mulmutius otherwise Molincius a Britain, that being duke of Cornwall, reduced the whole land formerly severed by civil wars, into the state of a Monarchie, made certaine wholesome Lawes, which long after were called *Mulmutius Lawes*, and by Gyltas translated out of the British Tongue into Latine, *Stow in his Annals*, pag. 16. Of these there remaine yet certaine heads, recorded by our Historiographers, as followeth. 1. *Ut Deorum templa, & civitates hominum consequantur tantam dignitatem, ut quis illo confugiens extrahi possit, antequam ab eo quem laeserat, veniam impetraverit.* 2. *Ut huiusmodi privilegium immunitatis habeant etiam ipsa viae quae ducunt ad templa & ad urbes.* 3. *Imo & iumenta quoq; illa, quae rei rusticae subveniunt.* 4. *Deniq; colonorum aratra ipsa tali prerogativa libertatis perfruantur.* 5. *Hoc amplius, ut ne qua terra vacaret cultura, neve populus inopia rei frumentaria premeretur, aut ea minueretur, si pecora sola occuparent agros qui ab hominibus coli debent.* 6. *Constituit quot aratra quolibet dioecesis haberet: ac poenam statuit iis, per quos ille numerus aratrorum foret diminutus.* 7. *Item vetuit, bovem aratorem pro debito pecuniae assignari debitoribus, si alia bona debitoris essent. Ita fore, ne compen-*

dii causa homines pecuarii agros incultos redderent : sic etiam fore, ne quid earum rerum quas natura praebet, hominibus usquam deesse posset. *Ricb. Vitus historiarum Britannia. lib. 3. num. 1.* And of these lawes we finde no obscure remanets in our lawes now in use : See *Magna charta, cap. 1. & cap. 14.* See *Sanctuary.* See *Peace.* Then was there a law called *Merschenlage*, whereby the *Mersians* were governed, being a Kingdome in the heart of the land, containing those Countries, that be now called *Northampton-shire, Leicester-shire, Rutland-shire, Lincolne-shire, Nottingham-shire, and Derby-shire, Camden Britannia, pag. 94.* whose power was great in the *Heptarchie* of the Saxons, untill at the last they were conquered by the West Saxons, and made subject to them. *Polydon. in Angl. Hist. lib. 5.* But whereas the name of these lawes favoureth of the Saxons time, it is reported by others that *Martia* a very learned Queene, and wife to *Quintelinus* a Britton King, was the author of them, long before the Saxons set foot in England. *Ricb. Vitus, histo. Britan. li. 3. num. 14.* who also saith that *Alfred* the Saxon King translated both these, & also those of *Mulmutius* into the *English* or *Saxon* tongue. Thirdly, there was the law of the West Saxons, called *West Saxen-*

lage, and the law of the *Danes*, when they set foot into the realm, called *Denelage*. And of these lawes, *Edward* made one law, as some write, whereby he ruled his Kingdome. But *M. Camden ubi supra*, speaking nothing of *Mulmutius* lawes, saith out of *Gervasius Tilburienfis*, that of the other three *William* the Conquerour chose the best, and to them adding of the *Norman* lawes, such as he thought good, hee ordained lawes for our Kingdome, which we have at this present, or the most of them.

Law hath an especiall signification also, wherein it is taken for that which is lawfull with us, and not elsewhere. As tenent by the courtesie of England, *an. 13. Ed. 1. ca. 3.* and againe, to wage law, *vadiare legem* : and to make law, *facere legem* : *Bract. lib. 3. tract. 2. cap. 37.* is to challenge a speciall benefit, that the law of this realm affordeth in certain cases : whereof the first, *sc. vadiare legem*, is to put in securitie, that hee will make law at a day assigned, *Glanville, lib. 1. cap. 9.* and to make law, is to take an oath, that hee oweth not the debt challenged at his hand, & also to bring with him, so many men as the Court shall assigne, to avow upon their oath, that in their consciences hee hath sworne truly. And this law is used in actions of debt, without

without specialtie, as also where a man comming to the Court, after such time, as his tenements for default, bee seised into the Kings hands, will denie himselfe to have beene summoned, *Glanvile, lib. 1. cap. 9. & 12.* And see *Bracton ubi supra, num. 1. v. Kitchin, fol. 164.* See the new exposition of law Termes, *verbo (Ley)* this is borrowed from *Normandie*, as appeareth by the *Grand Customarie, cap. 85.* But Sir *Edward Cooke* saith, it springeth originally from the Judiciall law of God, *lib. 4. of his reports. Slades case, fol. 95. b.* alleaging the 22. chapter of *Exodus*, verse 7. Whether so or not, the like custome is among the Feudists: by whom they that come to purge the defendant, are called (*Sacramentales*,) *libro feud. 1. titulo 4. Sect. 3. & titulo 10. & titulo 26.*

Law of armes (jus militare) is a Law that giveth precepts and rule how rightly to proclaime war, to make and observe leagues and truce, to set upon the enemy, to retire, to punish offendours in the Camp, to appoint Souldiers their pay, to give every one dignitie to his desert, to divide spoiles in proportion, and such like, for farther knowledge whereof, reade those that write *de jure belli.*

Law day, signifieth a Leete,

Cromptons Jurisdic. fol. 160. and the county Court, *anno 1. Ed. 4. cap. 2.*

Lawler man, is he *qui est extra legem*, *Bracton, lib. 3. tract. 2. cap. 11. num. 1.* See *Outlaw.*

Law of Marque. See *Reprisalles.* This word is used *anno 27. Ed. 3. stat. 2. cap. 17.* and groweth from the German word *March*, i. *limes*, a bound or limite. And the reason of this appellation is, because they that are driven to this law of reprisall, doe take the goods of that people of whom they have received wrong, and cannot get ordinary Justice, when they can catch them within their owne territories or precincts.

Law Merchants, is a privilege or speciall law differing from the common Law of England, and proper to Merchants and summary in proceeding, *anno 27. Ed. 3. stat. 8, 9, 19, & 20. anno 13. Ed. 1. stat. tertio.*

Lawing of dogs (expeditio canum.) See *Expeditate.* Mastifs must be lawed every three yeare. *Cromptons Jurisd. fol. 163.*

Lease (lesse) commeth of the French (*laiser*, i. *linquere, relinquere, omittere, permittere* :) It signifieth in our common Law, a dimise or letting of lands or tenements or right of common, or of a rent or any hereditament

unto another, for terme of yeares or of life, for a rent reserved. And a lease is either written, called a lease by Indenture, or made by word of mouth, called a lease paroll. See the new Termes of the law. The partie that letteth this lease, is called the Leassour, and the partie to whom it is let, the Lessee. And a lease hath in it six points: *viz.* words importing a demise, a lessee named, a commencement from a day certaine, a terme of yeares, a determination, a reservation of a rent, *Cooke vol. 6. Knights case, fol. 55. a.*

Leete (*leta*) is otherwise called a law day, *Smith de Republ. Anglor. lib. 2. cap. 18.* the word seemeth to have growne from the Saxon (*Letbe*) which as appeareth by the lawes of King Edward set out by *M. Lamberd, num. 34.* was a Court of Jurisdiction above the Wapentake or Hundred, comprehending three or foure of them, otherwise called *Tbrybing*, and contained the third part of a Province or Shire. These Jurisdctions one and other be now abolished, and swallowed up in the Countie Court, except they be held by prescription. *Kitchin, fol. 6.* or Charter in the nature of a franchise, as I have said in (*Hundred.*) The libertie of Hundreds is rare, but many

Lords, together with their Courts Baron, have likewise Leetes adjoyned, and thereby doe enquire of such transgressions, as are subject to the enquirie and correction of this Court: whereof you may reade your fill in *Kitchin*, from the beginning of his booke to the fift Chapter, and *Britton, cap. 28.* But this Court, in whose mannor soever it bee kept, is accounted the Kings Court, because the authoritie thereof is originally belonging to the Crowne, and thence derived to inferiour persons, *Kitchin, fol. 6.* Justice Dyer sayth, that this Leete was first derived from the Sheriffes, *Turn, fol. 64.* And it enquireth of all offences under high treason, committed against the Crowne and Dignitie of the King; though it cannot punish many, but must certifie them to the Justices of Assise, *per Statut. anno 1. Ed. 3. cap. ult. Kitchin, fol. 8.* but what things bee onely inquirable, and what punishable, see *Kitchin* in the charge of a Court Leet, *fol. 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20.* See also the Statute, *anno 8. Ed. 2.* The Jurisdiction of Bayliffes in the Dutchy of *Normandie*, within the compasse of their Provinces, seemeth to be the same, or very neare the same, with the power of our Leete.

Loete, cap. 4. of the grand Customary.

Legacie (*legatum*) is a particular thing given by last will and testament. For if a man dispose or transferre his whole right or estate upon another, that is called *Hereditas* by the Civilians, and bee to whom it is so transferred, is termed *heres*. Howbeit our common Lawyers call him Heire, to whom all a mans lands and hereditaments doe descend by right of blood. See *Heire*. See *Hereditaments*.

Leproso amovendo, is a writ that lyeth for a Parish, to remove a Leper or Lazar, that thrusteth himselfe into the companie of his neighbours, either in Church or other publike meeting, and commeth with them to their annoyance or disturbance. *Regist. orig. fol. 267. Fitzh. nat. br. fol. 234.*

Lestage, aliàs *lastage*, (*lastagium*) proceedeth from the Saxon word (*last. i. onus*) and is a custome challenged in Faires and Markets, for carrying of things. *Rastals* Exposition of words : or a custome chalenged in cheapings or Faires. *Saxon* in the description of *England*, cap. 11. *Lastage* anno 21. R. 2. cap. 18. seemeth to be the Ballance of a ship. *Fleta* termeth it *Lesting*, saying, *quodd significat acquietantium Lestagii. lib. 1. cap. 47. §. Lesting.*

Letters of Exchange, (*litera Cambitoria, vel litera Cambii*) *Regist. orig. fol. 194. a.*

Letters patents (*litera patentes*) bee Writings sealed with the broad Seale of *England*, whereby a man is authorized to doe or enjoy any thing that otherwise of himselfe he could not, anno 19. H. 7. cap. 7. And they be so termed of their forme, because they be open with the Seale hanging, ready to be shewed for the confirmation of the authoritie given by them. If any will say, that Letters patents may be granted by common persons, I will not greatly contend. For I find that to be true in *Fitz. nat. br. fol. 35. E.* Howbeit, they bee called rather patents in our common speech, then Letters patents. Letters patents to make Denizens, anno 32. Hen. 6. cap. 16. yet for difference sake, the Kings letters patents be called letters patents royall. anno 2. Hen. 6. cap. 10. There is likewise a writ patent. *Fitzh. nat. br. fol. 1. & seqq.*

Levari facias, is a writ directed to the Sheriffe, for the levying of a Summe of money upon lands and tenements, of him that hath forfeited a Recognizance, &c. *Regist. origin. fol. 298. b. & 300. b.*

Levari facias damna de disseisitoribus, is a writ directed to the Sheriffe, for the levying of dam-

dammages, wherein the dissei-
four hath formerly beene con-
demned to the disseisee. *Regist.*
fol. 214. b.

Levari facias residuum debiti, is
a writ directed to the Sheriffe,
for the levying of a Remanent of
a debt upon lands and tenements,
or chatels of the debtor, that
hath in part satisfied before, *Re-*
gist. orig. fol. 299.

Levari facias quando vicecomes
returnavit quod non habuit emptor-
es, is a writ commanding the
Sheriffe to sell the goods of the
debtor, which hee hath already
taken, and returned that he could
not sell them, and as much more
of the debtors goods, as will sa-
tisfie the whole debt. *Register,*
orig. fol. 300. a.

Letter of Atturney (litera Attur-
natus) is a writing, authorizing
an Atturney, that is, a man ap-
pointed to doe a lawfull act in
our steeds, *West. part. prim. sym-*
bol. lib. 2. sect. 559. It is called in
the civill law (*mandatum, or pro-*
curatorium.) There seemeth to be
some difference betweene a let-
ter of Atturney, and a warrant
of Atturney. For whereas a let-
ter of Atturney is sufficient, if it
be sealed and delivered before
sufficient witnesse: a warrant of
Atturney must bee acknowledged
and certified before such
persons, as fines be acknowledged
in the Countrey, or at the

least before some Justice or Ser-
geant. *West. parte 2. symbol. titulo*
Recoveries. sect. 1. F. See the sta-
tute, anno 7. R. 2. cap. 14.

Letters of Marque. See *Marque*
and law of *Marque.* See *Reprisals.*
See *an. 14. Hen. 6. cap. 7.*

Letters patents of summons for
debt, anno 9. H. 3. cap. 18.

Levy (Levare) commeth of the
French (*Lever. i. allevare, attollere*)
It is used in our common Law,
for to set up any thing, as to le-
vie a mill. *Kitchin, fol. 180.* or to
cast up, as to levie a ditch. *Old.*
nat. br. fol. 110. or to gather and
exact, as to levie money. See *Le-*
vari facias.

Libell (Libellus) literally sig-
nifieth a little booke, but by use
it is the originall declaration of
any action in the civill law, *an. 2.*
H. 5. cap. 3, & anno 2. Ed. 6. ca. 13.
It signifieth also a criminous re-
port of any man cast abroad, or
otherwise unlawfully published
in writing, but then for diffe-
rence sake, it is called an infam-
ous libell, *famosus libellus.*

Libello habendo. See *Copia libelli*
deliberanda.

Libera Chacea habendi, is a writ
Judiciall, granted to a man for a
free chace belonging to his man-
nor, after he hath by a Jury pro-
ved it to belong unto him, *Regi-*
ster Judiciall, fol. 36. & 37.

Liberate, is a warrant issuing
out of the Chancery to the Trea-
surer,

surer, Chamberlaines, and Barons of the Exchequer, or Clerk of the Hamper, &c. for the payments of any annuall pension or other summes granted under the broad Seale, *v. Brooke, titulo Tail d' Exchequer. nu. 4. Reg. orig. fol. 193. a. b.* or sometime to the Sheriffe, &c. *nat. br. fol. 132.* for the delivery of any lands or goods taken upon forfeits of Recognisance, *Fitzb. nat. br. fol. 131, & 132. v. Coke li. 4. Fulwoods case, fo. 64, 66, & 67.* It is also to a Jayler from the Justices, for the delivery of a Prisoner that hath put in baile for his appearance, *Lamb. Eiren. lib. 3. ca. 2.*

Libertate probanda, is a writ that lieth for such as be challenged for Slaves, and offer to prove themselves free, to the Sheriffe, that hee take securitie of them for the proving of their freedome before the Justices of Assise, and provide, that in the meane time they be quiet from their vexations, that challenge them for Slaves. *Fitzb. nat. br. fol. 77.* See *Nativo habendo*.

Libertatibus allocandis, is a writ that lieth for a Citizen or Burgesse of any City, that contrarily to the liberties of the Citie or Towne whereof hee is, is impleaded before the Kings Justices, or Justices errants, or Justice of the Forest, &c. that refuseth, or deferreth to allow his privilege,

Orig. Regist. fol. 262. Fitzb. nat. br. fol. 229.

Libertatibus exigendis in itinere, is a writ, whereby the King willeth the Justices in Eyre, to admit of an Atturney for the defence of another mans liberty, &c. before them, *Regist. orig. fol. 19.b.*

Libertas (libertas) is a privilege held by grant or prescription, whereby men enjoy some benefit or favor beyond the ordinarie subject. Liberties royall what they be, see in *Bracton, lib. 2. ca. 5.* Broke *hoc titulo.* See *Frauchise.*

Librata terra, containeth foure Oxegangs, and every Oxegange 13. Acres, *Skene de verb. signif. verbo Bovata terra.* See *Farding deale of land.*

Licence to goe to election, (*Licentia eligendi*, *Regist. folio 294.*) See *Conge d'estire.*

Licence to arise, (*licentia surgendi*) is a liberty given by the Court to a tenent, that is effoined *de malo lecti* in a reall action. For the law is, that in this case hee may not arise out of his bed, or at least go out of his chamber, untill hee have been viewed by Knights thereunto appointed, and so upon view of his sicknesse, have a day assigned him to appeare, or else lie untill hee be licensed by the Court to arise. And the reason of this is, as I

take it, because it may appeare whether he caused himselfe to be effoined deceitfully, yea or not : And therefore if the Demaundant can prove, that he bee seene out of his chamber, walking up & down his grounds, or elsẽ going abroad unto any other place, before hee be viewed or have license of the Court, hee shall be adjudged to be deceitfully effoined, and to have made default. Of this see *Bracton*, lib. 5, tract. 2, ca. 7, 10, & 12. and *Fleta*, li. 6, ca. 10. Horn in the second booke of his Mirrour, ca. des Effoynes, sayth, that the adverse party may grant *licentiam surgendi* to his adversary thus effoined. And if he wil not, the king upon just cause may.

Licentia surgendi, is the writ wherby the tenent effoined *de malo lecti*, obtaineth liberty to rise. See License to arise. See the Register, fol. 8.

Licentia transietandi, is a writ or warrant directed to the keepers of the port at Dover, &c. willing them to let some passe quietly over sea, that hath formerly obtained the kings license thereunto, Regist. orig. fol. 193. b.

Lieftenant (*locum tenens*) is a French word, signifying as much as *Legatus*. It is compounded of *lieu*, id est, *locus*, and *tenir*, id est, *tenore*. It signifieth with us, him that occupieth the Kings place,

or representeth his person, as the Lieftenant of the Kings of Ireland, an. 4 H. 4, cap. 6. So is it used, an. 2 & 3, Edward 6, cap. 2. whence that officer seemeth to take his beginning. But I read also in Master *Mumfords* first part of Forest lawes pag. 113, that the lord chiefe justice in Eyre of the Forest, and the chiefe warden also, have their lieftenants in the forest. So that though a Lieftenant bee most ordinary and most properly used for the deputy of a king, yet is it sometime extended to their deputies that be but lieftenants to the King.

Lieftenant of the ordnance, an. 39, Eliz. ca. 7.

Liege (*ligius*) is a word borrowed from the Fendists, and hath two severall significations in our common Law : sometime beeing used for Liege Lord, an. 34 & 35 H. 8, cap. 1. and an. 35 *iusdem*, cap. 3. and sometime for Liege man, an. 10 R. 2, ca. 1. and an. 11 *iusdem* cap. 1. Liege-lord is hee that acknowledgeth no superiour, Duareus in *Commentar. de Consuetudin. Feudorum*, cap. 4, un. 3. Liege man is hee that oweth leageancie to his liege lord. Master *Skem*, de verbo signif. verbo *Ligeantia*, sayth, that it is derived from the Italian word *Liga*, i. a Band, league, or obligation. In whom read more of this matter.

Ligeancy, is such a duty or fealty as no man may owe or beare to more than one Lord. *Idem eodem, num. 4.* I finde also this definition of ligeancy, in the graund Customary of Normandy, ca. 13. *Ligeantia est, ex qua domino tenentur vasalli sui contra omnes homines qui mori possunt & vivere, proprii corporis præberi consilii et auxilii iuvamentum, & ei se in omnibus innocuos exhibere, nec ei adversantium partem in aliquo confovere. Dominus etiam eosdem tenetur regere, protegere & defensare: eosque secundum jura & consuetudines, & leges patriæ pertractare.* This is otherwise called *legietas*, *Cassand. de Consuetud. Burgund. pag. 420 & 421.* This word is used in the Statutes of our realme, as the Kings liege people, anno 14 Hen. 8, ca. 2. Of the oath of ligeancy, *Jacobutius de Franchia, in prelude Feudorum, ca. 2, num. 138,* hath these words: *Præstatur hoc ligium homagium in manibus regis vel Imperatoris, genibus flexis, positis manibus junctis in manibus Domini, dicendo; Ego juro homagium tibi Domin. ut à modo sim homo ligens vester, contra omnem hominem, qui potest vivere: verba sunt pulchra. Andr. de Isern. in cap. 1, in verbo omnem. Colum. prima de nova forma fidelitatis: & hoc ligium homagium videmus præstari domino Regitantum: quia cum per id efficiatur homo solius illius, cui juratur, ut dixit Hostiensis in ca.*

ex diligenti. de Symon. alii non potest præstari, i. quia illius solius esse similiter non potest: non n. esse potest duorum in solidum l. si ut certo. §. si duobus vehiculum. π. commodati. secundum And. in dicto ca. 1, §. omnem. & Bald. hic in 7 divis. & Alvar. in 13 divisione. Non ligium verò dicitur, quando quis jurat fidelitatem Domino, excepta aliqua persona: viz. Domino superiori, vel antiquiore: *Hactenus Jacobutius; whereyon may read more touching this point. As also in Hotomans Disputations, De Feudis, pag. 816, fol. 820, &c.*

Ligeance (Ligeantia) see *Liege*. It sometime signifieth the dominions or territoritie of the liege Lord: as an. 25 E. 3, st. 2. Children born out of the ligeance of the King.

Lierwit est multa adulteriorum, Fleta li. 1, ca. 47. It is used for a liberty whereby a Lord challengeth the penalty of one that lieth unlawfully with his bondwoman: see *Lotherwit*.

Limitation of assise (limitatio assise) is a cartaine time set downe by statute, wherein a man must alledge himselfe or his auncestour to have beene seised of lands sued for by a writ of Assise. See the statute of Merton, cap. 8, anno 20 Hen. 3. & Westm. 1, ca. 38. and anno 32. H. 8, ca. 2. & an. 1 M. 1. pag. ca. 5. See also

Theobalds Digest of writs, li. 10, ca. 2. So it is used in the Old *Natural B. cv. fo. 77*, in these words; The writ *de consuetudinibus & servitiis* lieth, where I or myne ancestors, after the limitation of Assise, were not seised of the Customs, &c. But before the Limitation of Assise we were seised, &c.

Lindwood was a Doctor of both Civill and Canon Lawes, and Deane of the Arches: hee was Embassadour for *Henry* the fifth into Portugall, anno 1422. as appeareth by the preface to his Commentary upon the *Provinci-alls*.

Littleton was a Lawyer of great account living in the dayes of King *Edward* the fourth, as appeareth by *Stamf. prerogat. c. 21, fo. 72*. Hee wrote a booke of great account, called *Littletons Tenures*, which *Hotoman* in his Commentary *de verbis Fendalibus, verb. Fædam*, thus commendeth: *Stephanus Pasquierius excellenti vir ingenio, & inter Parisienses causidicos dicendi facultate præstans, libellum mihi Anglicanum Littletonum dedit, quo Fendorum Anglicorum jura exponuntur, ita inconditè, absurdè, & inconcinne scriptum, ut facile appareat verum esse, quod Polydor. Virgilius in Anglica Historia scribit, stultitiam in eo libro cum malitia & calumniandi studio certare.*

Litere ad faciendum attornatum pro seâ facienda. See in the Register originall, fol. 172. *Litera de annua pensione, eodem 266 & 307.* *Litera patens ad faciendum generalem attornatum quia infirmus, eodem fo. 21.* *Litera per quam Dominus remittit curiam suam Regi, eod. fol. 4.* *Litera de requestu, eodem, fo. 129.* *Litera Canonici ad exercendam jurisdictionem loco suo, fo. 305.* *Litere patentes ad conferendum Beneficia, domino in remotis agente, fol. 305.* *Litera ad innotescendum recuperationem Regi de ecclesia omnibus quorum interest, fo. 305.* *Litera patentes Regis quod Abbas ad totam vitam suam possit facere Attornatos generales, fo. 21.* *Litera procuratorie fo. 205, 306.* *Litera Regie deprecatorie, pro annua pensione, fol. 307.* All these you may see in their places, and understand the meaning of them as occasion shall require.

Livery (Liberatura) is drawne from the French *livre*, id est, *insigne, gestamen, Centuriale discrimen, nota centurialis, turmalis*. Or else from *livrer*, id est, *tradere*, and accordingly hath three significations: in one it is used for a suit of cloath or other stuffe that a Gentleman giveth in Coats, cloaks, Hats, or Gownes, with Cognisance or without, to his servants or followers, *an. 1 Ric. 2. cap. 7. et an. 20 ejusdem cap. 1. et 2. and an. 7 Hen. 4, cap. 14. and*

anno 8 Edw. 4, cap. 2. & anno 70
jusdem, cap. 14. and an. 13 *ejus-*
dem, cap. 3. and an. 8. H. 6, ca. 4.
 and an. 8 Edw. 4, cap. 3. and anno
 3 H. 7, cap. 1 & 12. and an. 11 *e-*
jusdem, cap. 3. and an. 19 *ejus-*
dem, cap. 14. In the other signification
 it betokeneth a delivery of pos-
 session unto those tenents which
 hold of the King in Capite, or in
 Knights service, for the King by
 his prerogative hath *primier seysi-*
ni, or the first possession, of all
 lands and tenements so holden of
 him : anno 52 Hen. 3, cap. 16.
 and an. 17 Edw. 2, cap. 3. that
 is, when any such tenent dyeth,
 the King forthwith entureth, and
 holdeth it untill the heire do his
 homage, and so pray his land
 to bee delivered unto him.
 Which act in the King is called
 Livery, and Livery in this sig-
 nification is either generall or
 speciall, *Stawf. prerogat. fo. 12,*
 & cap. 3. Livery generall seemeth
 so be that which is made in gene-
 rall words, and therefore may easi-
 ly bee misued. Livery speciall
 is that, which containeth in it
 a pardon of oversights commit-
 ted by the tenent in fiewing out
 his Livery, by which pardon the
 misuing is dispenced with. *Stawf-*
ford pag. 67. cap. Travers. 20. See
 the Institutes and grounds of the
 Common law, chapter the thir-
 tieth, of generall and speciall Live-
 ries. Livery in the third significa-

tion is the writ which lieth for
 the heire, to obtaine the possession
 or seisin of his lands at the Kings
 hands. Which see in *Fitz. nat. bre.*
fo. 155.

Livery of seisin (deliberatio sei-
sine) is a delivery of possession of
 land or tenement, or other things
 corporeall (for of things incor-
 poreall no Livery of seisin may be)
 unto one that hath right or a pro-
 bability of right unto them. For
 as *Bracton* sayth, *Traditio debet esse*
vestita, et non nuda : sc. quod
traditione precedat vera causa, vel
putativa, qua transeat Dominicum.
lib. 2, cap. 18, num. 3. West parte 1,
symbol. li. 2, sect. 196, calleth this
 a ceremony in the common Law,
 used in the conveyance of lands
 or tenements, &c. where you may
 see the usuall forme hereof parti-
 cularly set downe, whereunto
 joine the new Exposition of Law
 termes.

Lieutenant, see Lieftenant.

Lieutenant of the Tower, seemeth
 to have bin an officer under the
 Constable, an. H. 4, ca. 15.

Locus partitus, signifieth a
 division made betweene two
 Townes or counties, to make tri-
 all in whether the land or place in
 question lieth. *Flotali. 4. cap. 15,*
nn. 1.

Locall, (localis) signifieth in
 our Common Law, as much as
 tied or annexed to a place cer-
 taine. Example: the thing is lo-
 cal

call, and annexed to the freehold : *Kitchin fo. 180.* And againe in the same place, An action of trespassse for batterie, &c. is transitory, not locall, that is, not needfull that the place of the battery should be set downe as materiall, in the Declaration : or if it be set down, that the defendand should traaverse the place set downe, by saying he did not commit the battery in the place mentioned in the declaration, and so avoid the Action. And againe, *fol. 230,* the place is not locall, that is, not materiall to bee set downe in certaintie. And the gard of the person, and of the lands differeth in this, because the person being transitory, the lord may have his Ravishment de Gard, before hee bee seised of him, but not of the Land, because it is locall. *Perkins Grants, 30.*

Lobbe, is a great kind of North sea fish, *an. 31 Edw. 3, statut. 3, ca. 2.*

Lodemanage, is the hire of a Pilot for conducting of a ship from one place to another.

Loick fish, as Lob, Ling, Cod, *an. 31 Ed. 3, stat. 3, ca. 2.*

Lodeworks, is one of the workes belonging to the stannaries in Cornwall; for the which reade M. *Cambdens Britan.* in his title of Cornwall, *pag. 119.* See *Stremework.*

Lollards (*Lollardi*) were in

account and reputation of those times, Heretiques that abounded here in England, in the dayes of Edward the third, and Henry the fifth, *an. 2 H. 5, cap. 7* : whereof *Weekleise* was the chiefe, as *Slow* saith in his *Annals, pa. 425* ; who by his report, went bare footed, and basely cloathed, to wit, in base russet garments downe to the heeles : they preached, and especially against Monkes and other religious men. Of these reade more in him, and others that writ of those times. The name *Lindwood* deriveth à *Lolio*, *quia sicut Lolium inficit segetes : sic Lollardi multociens inficiunt fideles simplices inter quos conversantur. in ca. finali. de Hereticis, verbo Lollardie.* But *Tritemius* in his Chronicle deduceth the name from one *Gualter Lolbard* a Germane, as the first author of that Sect, living about the year of our Redemption 1315.

Lord (*Dominus*) by Master *Cambdens* opinion, is a contract of *Lafford*, which is the Danish word for *dominus*. It is a word of honour with us, and is used diversly. Sometime being attributed to a man that is noble by birth or creation, which sort are otherwise called Lords of the Parlament. Sometime to those that be so called by the courtesie of England, as all the sonnes of a Duke, or the eldest sonne of an Earle,

Earle. Sometime to men honourable by office; as Lord chiefe Justice, &c. And sometime to a meane man that hath fee, and so consequently the homage of tenants within his manour, for by his tenants hee is called Lord, and by none other, and in some places for distinctions sake hee is called land-Lord. It is used neverthelesse by the writers of the Common-Law most usually in this signification: and so is it divided into Lord above, and lord meane. Lord meane is he that is owner of a manour, and by vertue thereof hath tenants holding of him in fee, and by copy of Court-rolle, and yet holdeth himselfe over a superiour Lord, who is called Lord above, or Lord paramount. *Old nat. brev. fo. 79.* Although I thinke none simply to be accounted Lord paramount but the Prince: because all other hold mediately or immediatly of him, and he of none. In this signification I likewise reade Very Lord, and very Tenant, *codem, fol. 42.* and *Brooke titulo Heriot, nu. 1.* where I thinke; Very Lord is he which is immediate Lord to his tenant: and him to bee Very tenant to that Lord of whome he immediately holdeth. So that if there be Lord above, lord meane and tenant, the Lord above is not very Lord to the tenant, nor

the tenant very tenant to the lord above.

Lord in grosse, Fitzb. nat. brev. fo. 3. is hee that is Lord having no mannour, as the king in respect of his Crowne, *idem, fo. 5, f.* See him also, *fo. 8, a, b.* where I finde a case wherein a private man is lord in grosse, viz. a man make a gift in sayle of all the land hee hath, to hold of him, and dieth; his heire hath but a Seigniorie in grosse.

Loriners, an. 1, R. 2, ca. 12. is one of the companies of London, that maketh bits for bridles of horses, and such like: the name seemeth to be taken from the Latine *Lorum*, and is elsewhere written *Loriners*.

Lotherwit, alias Leyerwit, is a liberty or priviledge to take amends of him that defileth your bondwoman without license. *Rassell* exposition of words. It is an amends for lying with a bondwoman. *Saxon* in his description of England, *cap. 11.* Some thinke it should be rather written *Legerwit*; for *Leger* is the Saxon word for a bed; or *Logherwit*, of the old word *Logher*, being of the same signification. See *Bloodwit*, and *Lyerwit*.

Lusferies, see *Faire*.

Lushobarow, is a base coyne used in the dayes of King *Edward* the third, coyned beyond seas to the likenesse of English money, and brought

brought in to deceive the King and his subjects. To avoid the which, it was made Treason for any man wittingly to bring in any such, *anno 25. Edw. 3. stat. 4. cap. secundo.*

M A

M *Accegriffs, aliàs Maccegreffs,* be such as willingly buy and sell stolen flesh, *Briton. cap. 29. fo 71. b. Cromptons Justice of peace, fol. 193. a.*

Magna assisa eligenda, is a writ directed to the Sheriffe, to summon foure lawfull Knights before the Justices of Assise, there upon their oathes to chuse twelve Knights of the videnage, &c. to passe upon the great Assise betwene *A. Plantiffe*, and *B. Defendant*, &c. *Register originall, fol. 8. a.*

Magna Charta, called in English the great Charter, is a Charter containing a number of Lawes ordeined the ninth yeere of *Henry the third*, and confirmed by *Edward the first*. The reason why it was tearmed *Magna Charta*, was either for that it contained the summe of all the written Lawes of England; or else, that there was another Charter called the Charter of the Forest, established with it, which in quantitie was the lesser of the two. I read

in *Holinsbed*, that King *John*, to appeale his Barons, yeelded to Lawes, or Articles of Government, much like to this great Charter; but wee now have no ancienter written Law, then this, which was thought to be so beneficiall to the subject, and a law of so great equitie, in comparison of those which were formerly in use, that King *Henry the third* was thought but hardly to yeeld unto it, and that to have the fiftenth penie of all the moveable goods, both of the Spiritualitie and Temporallie throughout his Realme. *Holinsbed* in *Henry the third*. And though this Charter consist not of above thirtie seven Charters or Lawes: yet is it of such extent, as all the Law wee have, is thought in some sort to depend of it. *Polydorus* and *Holinsbed*, *ubi supra.*

Mahim (*Machemismus*) cometh of the old French (*Machaigne*) as *M. Skene* saith, *de verbor. significat. verbo Machaninus*, and signifieth a corporall hurt, whereby a man loseth the use of any member, that is, or might be any defence unto him in battell. The Canonists call it *Membrum mutilationem*, as the eye, the hand, the foot, the scalpe of the head, his fore-tooth; or, as some say, of any finger of his hand, *Glarville, lib. 14. cap. 7.* See

Bracton at large, lib. 3, tractat 2, ca. 24, num. 3. and *Britton* ca. 25. and *Stamf. pl. cor. lib. 1, ca. 41.* and the new Exposition of Law-Terms : and the Mirrour of Iustices, cap. d' *Homicid.* The grand Customary of Normandie, ca. 6, calleth it *Mabaignum*, and defineth it to be *Enormem lesionem.* All agree, that it is the losse of a member, or the use thereof. And *membrum*, as *Cassan. de consuetu. Burgund. p. 168,* defineth it out of *Baldus*, *Est pars corporis habens destinatam operationem in corpore* ; where you may reade more of this point. But if you will see it largely discuffed, looke *Ugolinus de irregularitatibus*, cap. 4, § 3, 4, 5. also reade *M. Skene, ubi supra.*

Mainour, aliàs *manour*, aliàs *meinoure*, seemeth to come of the French (*manier*, i. *manu tractare, attrahere*) or else of *Amener*, i. *abducere*. It signifieth in our Common Law, the thing that a Theefe taketh away or stealeth. As to be taken with the mainour, *Pl. Cor. fo. 179*, is to be taken with the thing stollen about him : and againe, *fol. 194.* It was presented, that a Theefe was delivered to the Viscount together with the mainour. And thirdly *fol. 186*, If a man bee indicted, that hee feloniously stole the goods of another, where in truth they be his owne goods :

and the goods bee brought into the Court, as the mainour, and it bee demanded of him, what he saith to the goods : and hee disclaime them ; though he bee quitted of the felonie, hee shall lose the goods. And again, *fol. 149*, if the Defendant were taken with the manour, and the manour bee carried to the court, they in ancient times would arraigne him upon the mannour, without any appeale or inditement : I finde this word used in the Old *Nat. brev. fo. 110*, in this sort : where a man maketh a thing by mainour or le-uying, or estopping, in such case hee shall have assise : where it signifieth handy labour, and is but an abbreviation of *Main-ourey*.

Mainoure, see *Misourey*.

Mainprise (*manu captio*) is compounded of two French words, *Main*, i. *manus*, and *pris*, id est *captus* ; which is a participle of the verbe *prendre*, id est, *capere*, *excipere*, *captare*. It signifieth in our common Law, the taking or receiving a man into friendly custody, that otherwise is or might be committed to the mercy of the prison, upon security given for his forth-coming at a day assigned : as to let one to mainprise, Old *Nat. Brev. fo. 42*, is to commit him to them that undertake his apparance at

the time appointed. And they that doe thus undertake for any, are called Mainpernours, because they doe receive him into their hands. *Pl. Co. fo. 178.* Of this sort is the word Mainpernable, which signifieth him that hath committed such an offence, as by Law hee may be thus bayled: for in many cases a man is not mainpernable: whereof see *Brooke, titulo Mainprise, per totum.* and *Fitzh. nat. brev. fo. 249, & seq.* Master *Manwood* in the first part of his *Forest lawes*, pag. 167, maketh a great difference betweene Bayle and Mainprise. For hee that is mainprised (quoth hee) is alwayes sayd to be at large, and to goe at his owne liberty out of ward, after the day is set to mainprise, untill the day of his appearance, by reason of the sayd common summons, or otherwise. But otherwise it is where a man is let to bayle to foure or two men, by the Lord Justice in Eyre of the Forest, untill a certaine day. For there he is alwayes accounted by the Law to be in their ward and custody for the time. And they may if they will, keepe him in ward or in prison all that time, or otherwise at their will. So that he that is so bayled, shall not bee sayd by the Law to bee at large, or at his owne liberty. Thus farre Master *Manwood*. The Myrrhor of Justices maketh a difference al-

so betweene pledges and Mainpernours, saying, that pledges are more generall, and that Mainpernours are body for body, *lib. 2, cap. de Trespasse veniall.* and *lib. 3, cap. des Pledges & Mainpernours.* When Mainprises may bee graunted, and when not, see *Cromptons Justice of peace, fol. 136, &c. usque 141.* and *Lambert, Eirenarch, lib. 3, cap. 2. pag. 336, 337, 338, 339, 340.* See also *Britton fo. 73, a. cap. des Pledges & Mainpernours.* The authour of the *Mirror of Justices* sayth, that Pledges be those that bayl or redeeme any thing but the body of a man: and that Mainpernours bee those that free the body of a man. And that pledges therefore belong properly to reall and mixt actions, and Mainpernours to personall.

Maintenance (*manutentio, vel manutinentia*) is a French word, and signifieth an upholding of a cause or person, metaphorically drawne from the succouring of a young childe that learneth to goe by ones hand. In our common law it is used in the evill part, for him that secondeth a cause depending in suite betweene others, either by lending of money, or making friends for either party, toward his helpe. *anno 32 Hen. 8, ca. 9.* And when a mans act in this kinde is by Law accounted Maintenance,

nance, and when not. See *Brooke*; *titulo* Maintenance : and *Kitchin* fo. 202, & seq. and *Fitzb. Natura brev.* fo. 172. and *Cromptons* Jurisdiction, fol. 38. The writ that lieth against a man for this offence is likewise called Maintenance : *Termes of the Law*, *verbo* Maintenance. Speciall Maintenance, *Kitchin* fo. 204, seemeth to be maintenance most properly so termed. Of this see *Cromptons* Justice of peace, fo. 155 b. and the new booke of Entries, *verbo* Maintenance. Maintenance, *v. Novos terminos juris*.

Make (*facere*) signifieth in the Common law, to perform or execute : as to make his law, is to performe that law which hee hath formerly bound himselfe unto, that is, to cleare himselfe of an action commenced against him by his oath, and the oathes of his neighbours. *Old Nat. brev.* f. 161. *Kitchin* fo. 192. Which law seemeth to be borrowed of the Feudists, who call these men that come to sweare for another in this case, *Sacramentales*. Of whom thus sayth *Hotoman*, in *verbis* Feudal. *Sacramentales à Sacramento*, id est, *juramento dicebantur ii, qui quamvis rei de qua ambigebatur, testes non fuissent, tamen ex ejus, cujus res agebatur, animi sententia, in eadem que ille verba jurabant : illius videlicet probitate & innocentia confisi. Nam tuum demum*

adhibebantur, cum testes nulli extarent. See the rest. The formall words used by him that maketh his Law, are commonly these : Heare O ye Justices, that I doe not owe this summe of money demanded, neither all nor any part therof, in manner and forme declared : so helpe mee God, and the contents of this booke. To make services or custome, is nothing els but to performe them. *Old Nat. br.* fo. 14. To make oath, is to take oath.

Maletent, in the statute called the confirmation of the liberties of, &c. an. 29 E. 1, ca. 7. is interpreted to be a tolle of 40 shillings for every sacke of wooll. *Stow* in his *Annals* calleth it a *Maletot*, pag. 461. See also the statute *de Tallagio non concedendo*, an. 35 ejusdem stat.

Malin, see *Marle*.

Manbote signifieth a pecuniarie compensation for killing of a man. *Lambert* in his Exposition of Saxon words, *verbo* *Æstimation*. Of which reade *Roger Hoveden* also, in *parte poster. suorum annal.* f. 344, a, b.

Mandamus, is a writ that lieth after the yeare and day, whereas in the meane time the writ called *Diem clausit extremum*, hath not beene sent out to the Escheatour, for the same purpose for the which it should formerly have beene sent forth. *Fitz. Nat.*

br. fol. 253. B. See *Diem clausit extremum*. *Mandatum* is also a charge to the Sheriffe, to take into the Kings hands, all the lands and tenements of the Kings widow, that against her oath formerly given, marrieth without the Kings consent, *Register, fol. 295. b.* See *widow*.

Mandatum, is a commandment judiciall of the King, or his Justices, to have any thing done for the dispatch of justice, whereof you shall see diversitie in the Table of the Register judicial. verbo *Mandatum*.

Maner (*Manerium*) seemeth to come of the French (*manoir. i. domicilium, habitatio*) *M. Skene de verbo. significatiōe, verbo Manerium*, saith it is called *Manerium*, *quasi Manurium*, because it is laboured with handie-worke by the Lord himselfe. It signifieth in our common law, a rule or government, which a man hath over such as hold land within his fee. Touching the originall of these maners, it seemeth that in the beginning, there was a certaine compasse or circuite of ground, granted by the King unto some man of worth (as a Baron or such like) for him and his heires to dwell upon, and to exercise some jurisdiction more or lesse within that compasse, as hee thought good to grant, Performing him such services, and

paying such yearely rent for the same, as hee by his grant required: and that afterward this great man parcellled his land to other meaner men, injoyning them againe such services and rents, as hee thought good, and by that meanes, as hee became tenant to the King, so the inferiours became tenants unto him. See *Perkins Reservations* 670. and *Andrew Horns Booke* intituled the *Mirroure of Justices, li. 1. ca. du. Roy Alfred*. See the definition of a *Maner. Fulb. fol. 18.* And this course of benefiting or rewarding their Nobles for good service, have our Kings borrowed from the Emperours of Rome, or the Lombard Kings, after they had settled themselves in *Italy*, as may well appeare by *Antonius Contin in metodo feudorum, ca. 1. de origine, & libris Feudorum*. And I find that according to this our custome, all lands holden in fee throughout France, are divided into *Fiefz* and *arrieriefz*: whereof the former are such as are immediately granted by the King, the second such as the Kings feudataries doe againe grant to others, *Gregorius Syntagm. lib. 6. ca. 5. nu. 3.* But the inconstancie of mans estate, and the mutability of time hath brought to passe, that those great men, or their posteritie, have alienated these *Manfions*, and lands so given them

them by their Prince, and others that had none, have by their wealth purchased many of them: And againe, that many for capitall offences, have forfeited them to the King, and that thereby they still remaine in the Crown, or are bestowed againe upon others: so that at these dayes many be in the hands of meane men, such as by their skill in Law, or Physicke, by Merchandize, Grazing, or such other good husbandry, have gathered wealth, and enabled themselves to purchase them of those, that by descent received them from their ancestors in greater abundance, than wit to keep them. But whosoever possesseth these maners, the libertie belonging unto them is real and prediall; and therefore remaineth still, though the owners be changed. In these dayes a Maner rather signifieth the Jurisdiction and royaltie incorporeall, than the land or site. For a man may have a maner in grosse (as the law termeth it) that is, the right and interest of a Court Baron, with the perquisites thereunto belonging: and another or others have every foot of the land thereunto belonging. *Kitchin, fol. 4. Broke hoc titulo per totum. Bracton, lib. 4. ca. 31. num. 3.* divideth *manerium*, in *capitale* & *non capitale*. See *Bracton, lib. 5. tractat. 5. ca. 28. num. pri.* See *Fee.*

The new expositor of Law terms saith, that Manour is a thing compounded of divers things, as of a house, land, earable, pasture, meadow, wood, rent, advouzen, Court Baron, and such like. And this ought to be by long continuance of time, to the contrary whereof mans memory cannot discernae, &c.

Mansion (*Mansio*) as *Bracton* defineth it, *lib. 5. cap. 28. num. pri.* is a dwelling consisting of one or more houses, without any neighbour. And yet hee granteth forthwith, that *Mansio Mansioni possit esse vicinata*. I find it most commonly used for the Lords chiefe dwelling house within his see, whether it have neighbours adjoyning or not, otherwise called the capitall mesuage. *Bracton, li. 2. ca. 26.* or the chiefe Maner place. *Mansio* amongst the ancient Romanes, was a place appointed for the lodging of the Prince, or Souldiers in their journey, furnished with convenient entertainment by the neighbours adjoyning. And in this sence we reade *primam mansionem*, for the first nights lodging, and so in order. It is probable that this word (*Mansion*) doth in some construction signifie so much land, as *Beda* calleth *Familiam* in his Ecclesiasticall History. For Master *Lambert* in his explication of Saxon words, *verb. Hida*

terra, sayth, that that which hee calleth *familiam*, others since call *Mauentem*, vel *mansam*. *Mausus* and *Mansum* I reade of in the Feudists, which as *Hottoman* saith, in *verbis feudalibus*, est neque domus, neque area, neque hortus, sed ager certi modi ac mensura. And againe, in *Commentariis Feudorum*, lib. p. tit. 4. vers. de *Manso*. *Agri deserti & inculti certa mensura dabantur cultoribus quasi in emphyteusim*, ut culti & meliorati, feudi jure a vassallis possiderentur. In contractu autem vassalli nonnunquam incrementum, i. meliorationem omnem sive recipiebant, sive per culturam, sive per inaedificationem ea melioratio fieret, &c. And *Cassaneus*, de consuetud. Burg. p. 1195, defineth it thus: *Mausus est, quantum quis cum upo pari bonum laborare possit*. Proving it out of *Bartolus*, in lib. si ita n. de auro & argen. legato: in fine legis. Reade Master *Skene*, de verb. signif. verbo *Mansus*. I reade the Latine word *mansia* in the same signification; as namely in the Charter graunted by King *Kamulphus* to *Ruchin* the abbot of *Abington*, which Sir *Edward Cooke* setteth downe in his booke de *Jure regni ecclesiastico*.

Manslaughter (*homicidium*) is the unlawfull killing of a man without prepenesed malice: as when two, that formerly meant no harme one to another, meet

together, and upon some sudden occasion falling out, the one killeth the other. *West parte 2, symb. titulo Indictments, sect. 44*. It differeth from murther, because it is not done with foregoing malice: and from chance-medly, because it hath a present intent to kill. And this is felony, but admitteth Clergy for the first time, *Stawnsf. pl. Cor. li. 1, ca. 9.* and *Britton cap. 9*. It is confounded with murther in the statute, anno 28 Ed. 3, ca. 11.

Mantyle (*mantile*) commeth of the French *mantan*, and signifieth with us a long robe, anno 24 H. 8, ca. 13.

Manucriptio, is a writ that lieth for a man, who taken for suspicion of felony, and offering sufficient Bayle for his appearance, cannot bee admitted thereunto by the Sheriffe, or other having power to let to mainprise. *Fitzh. Nat. brev. fo. 249*. See *Mainprise*. How diversly it is used see the Register originall, in the Table.

Manuel (*manuelis*) is a thing whereof present profit may bee made, *Stawnsf. prerogativ. fo. 54*. And a thing not manuell, is that whereof no present profit may be made, but hereafter when it falleth, *ibid.*

Manumission (*manumissio*) is a freeing of a Villein or slave out of his bondage. The form of this

this in the time of the Conqueror, Master Lambert in his *diplomata* fol. 126, setteth downe in these words: *Si quis velit servum suum liberum facere, tradat eum vicecomiti, per manum dexteramque in ple-no comitatu, et quietum illum clamare debet à jugo servitutis sua per manumissionem: & ostendat ei libertas portas, & vias, & tradat illi libera arma, scilicet lanceam & gladiam: & deinde liber homo efficitur.* Some also were wont to be manumitted by Charter of manumission: Vide Brooke, titulus Villenage, fol. 305. The new Expofitor of Law Termes maketh two kindes of manumission: one exprest, another implied. Manumission exprest, is when the Lord maketh a Deed to his Villeine, to enfranchise him by this word *Manumittere*. The manner of manumitting in old time was thus: The Lord in presence of his neighbours rooke the bond-man by the head, saying, I will that this man be free; and therewith shoved him forward out of his hand. Manumission implied is, when the Lord maketh an obligation for payment of money to him at a certaine day, or sueth him where hee might enter without suite, or graunterh him an Annuity, or leaseth land unto him by Deed, for yeares, or for life, and such like.

Maintenance is a writ used in case of maintenance. Reg. originall, fo. 182 & 189. See *Maintenance*.

Marches (*Marchia*) bee the bounds and limits betweene us and Wales, or betweene us and Scotland: anno 24 Hen. 8, ca. 9, *Cambd.* pag. 453 & 606. and the marches of Scotland are divided into West and middle Marches, anno 4 Henric. 5, cap. 7. et anno 22 Edward. 4, cap. 8. It seemeth to be borrowed from the German *March*, i. *limes*: *Cambdens Britan?* pa. 27. or it may be from the French *Marque*, id est *signum*, beeing the notorious distinction of two divers countries or Territories. It is used in the statute, anno 24 Hen. 8, ca. 12, generally for the precincts of the kings dominions.

Marchers, bee the noblemen dwelling on the marches of Wales or Scotland; who in times past (as *Cambden* sayth, pag. 453) had their privat lawes, much like as if they had beene Kings, which now bee worne out. Of these Marchers you may read, anno 2 H. 4, c. 18. & anno 26 Hen. 8, ca. 6. and anno 1. Edward. 6, ca. 10, where they are called Lord Marchers. See an. 27 H. 8, ca. 26, how these were extinguished.

Marshall (*Marescallus*) is a French word, signifying as much

as *Tribunus scelerum*, or *Tribunus militum* with the auncient Romanes, or *Πονερχ* with the Grecians, or *Ἰππαρχ*, *Tiraquel. de nobilitate*, c. 8. p. 42. n. 17. The French word may seeme also, among many other that they have, to proceed from the Germane *Marschalk*, id est, *equitum magister*: which *Hotoman*, in *verbis feudalibus*, verbo *Marschalkus*, deriveth from the old word *March*, signifying an house. With whom agreeth *Lupanus, de Magistratibus Francie*, lib. 1, cap. *Marschallus*. Others make it of these two Saxon words, *Mar*, id est, *equus*, and *scalc*, id est, *praefectus*: Or as Master *Verstegan* sayth, from *Mare*, the generall appellation of all horses, as *Horic* is now in English: and *Scalc*, which in the ancient language of the Netherlanders, he affirmeth to signifie a kinde of servant, as *Scalco* doth at this day among the Italians, being originally a Dutch word. With us there bee divers officers of this name, but one most noble of all the rest, who is called Lord or Earle Marshall of England; of whom mention is made in divers statutes, as anno 1 H. 4. cap. 7 & 14. and anno 13 Rich. 2, ca. 2. His office consisteth especially in matters of warre and Armes, as well with us, as in other countries; where of you may reade in *Lupanus*,

ubi supra: and *Tilius lib. 2, cap. de Constabili, Mariscallo, &c.* But he that would know the office of our Lord Marshall, had need, beside the few statutes which concerne him, to reade his Commission, and also to have accessse to the heraulds, who out of their antiquities are able to discover much, that by prescription belongeth unto this office. The next to this is the Marshall of the Kings house, whose especiall authority is, according to *Briston* and *M. Gwin*, in the preface to his reading, in the Kings place to heare and determine all plices of the Crowne, and to punish faults committed within the verge, and to heare and determine suits betweene those of the Kings household, and others within the verge, *Crompt. Jurisdictiones*, fo. 102. Of him you may reade, *Fitzh. Nat. Brev. fo. 241, b.* and anno 18 Edward. 3, stat. 2, ca. 7. and an. 27 Edw. 3, stat. 2, ca. 6. and an. 2 H. 4, ca. 23. and an. 15 H. 6, ca. 1. *Fleta* sayth, That the office of the Marshall of the kings house belongeth to the Earle of Norffolke in fee, and that hee may appoint, with the Kings consent, a Knight under him to execute the office: which office hee also describeth to bee especially, to execute the judgments and decrees of the Steward, and to have the keeping of the prisoners, li. 2, c. 4. and reade further of his office in the fifth chap. of

of the said Booke, which is to dispose of the Lodging in the Kings household under the Chamberlaine, and to cleere the Verge of Strumpets, &c. *anno 5. H. 3. statut. 5.* Then be there other inferiour officers of this name: as Marshall of the Justices in Eyre, *anno 3. Ed. 1. ca. 19.* Marshall of the Kings Bench, *anno 5. Ed. 3. ca. 8.* and this is hee which hath the custodie of the prison, called the Kings Bench in *Southwarke*, *Fitzherb. nat. brev. fol. 251. I.* And these inferiour Marshals be either *ad placitum*, or in fee, *Kitchin, fol. 143.* I finde also in *Fleta, lib. 2. cap. 15.* mention of a Martiall of the Kings Hall, whose office is, when the tables be prepared, and clothes laid, to call out both those of the household and strangers, according to their worth, and decently to place them, to reject unworthy persons, to know the number of the Hall, and to testifie it at the next account, to see dogs kept out, to save the almes from filching, to see silence kept, and every man competently served with meate and drinke, and when the Court removeth, to appoint every one of the household his lodging. There is also a Marshall of the Eschequer, *anno 51. H. 3. stat. 5.* to whom the Court committeth the custodie of the Kings debtors during the Terme time, to the

end they may be farther imprisoned, if they cleere not their debts. He also assigneth Shiriffes, Escheators, Customers, and Collectors, their Auditours before whom they shall account. Hee hath all inquisitions taken before Escheators *virtute officii*, delivered unto him, to be delivered by him to the Treasurers Remembrancer.

Marshalsee (*Marescallia*) is the Court of the Marshall, or (word for word) the seat of the Marshall; of whom see *Cromptons Jurisd. fol. 102.* It is also used for the prison in *Southwarke*, the reason whereof may be, because the Marshall of the Kings house, was wont perhaps to sit there in Judgement. See the statute, *anno 9. Ric. 2. ca. 5. & anno 2. Hen. 4. ca. 23.*

Martial law, is the law that dependeth upon the voice of the King, or the Kings Lievetenant in warres. For howbeit, the King for the indifferēt and equall temper of lawes to all his subjects, do not in time peace make any lawes, but by the consent of the three estates in Parliament: yet in wars, by reason of great dangers rising of small occasions, he useth absolute power: in so much as his word goeth for Law. And this is called Martiall law, *Smith de Repub. Angl. lib. 2. ca. 3.* See *Law of Armes.*

Marriage (*Maritagium*) signifieth not onely the coupling together of man and wife, but also the interest of bestowing a ward or a widdow in marriage. *Magna charta*, cap. 6. anno 9. Hen. 3. and *Bracton*, lib. 2. cap. 3. and also it signifieth land given in marriage, *Bracton*, lib. 2. cap. 34. & 39. And in this signification the same Author saith, that *Maritagium est aut liberum aut servitio obligatum*, li. 2. ca. 7. num. 3. & 4. *Liberum maritagium dicitur, ubi donator vult, quod terra sic data, quæta sit & libera ab omni seculari servitio, quod ad Dominum feudi possit pertinere: & ita quod ille, cui sic data fuerit, nullum omnino inde faciat servitium usque ad tertium heredem, & usque ad quartum gradum: ita quod tertius heres sit inclusivus.* See the rest. See also *Skene de verbo. signific. verbo Maritagium*, who is worth the reading.

Maritagio amisso per defaultam, is a writ for the tenant in franck marriage, to recover lands, &c. whereof he is deforced by another, *Reg. fol. 171.*

Maritagio forisfacto, is a writ. See *Forisfactura Maritagii.*

Marke (*merca*) commeth of the Saxon (*Mearc*) which signifieth a piece of money worth thirty Silver pence. *Lamb. explic. of Saxon words, verbo Mancusa*: what it now signifieth in our coine, every man knoweth.

But in ancient times I find a marke of gold, which was the quantitie of eight ounces. *Stowes annals*, pag. 32. and againe, pag. 691. 12. markes of gold Troy weight, the which was 200. pounds of English mony, after which rate every mark valued 16 pounds 13 shillings foure pence. *Al. Skene de verbo. signif. verbo Marke*, saith, that in *tractatu de ponderibus & mensuris*, a Marke signifieth an ounce weight, or halfe a pound, whereof the Dram is the eighth part, like as the ounce is the eighth part of a Marke; citing *Cassianus de consuetud. Burgund. Rub. prim. §. 7. verbo. Solz Turnoys. bin verbis. Solidus (inquit) in jure capitur pro auro, quorum 72. faciunt libram auri, & duodecim uncie faciunt libram, & octo uncie mercam.*

Market (*mercatus*) commeth of the French (*marche. i. emporium, forum nudinarium*) it signifieth with us, the same thing, and also the liberty or priviledge whereby a Towne is inabled to keepe a Market, *Old. nat. br. fol. 149.* So doth *Bracton* use it, lib. 2. cap. 24. num. 6. & lib. 4. cap. 46. where hee sheweth that one Market ought to be distant from another; *Sex leucas & dimidiam, & tertiam partem dimidia.* The reason thereof both hee and *Fleta* giveth in these words: *Quia omnes rationabiles diæta constant ex*

20. *milliaribus. Dividatur ergo dicta in tres partes : prima autem matutina detur civitibus versus mercatum : secunda detur ad emendum & vendendum : que quidem sufficere debet omnibus, nisi sint forte mercatores statarii qui merces deposuerint & exposuerint venales, quibus necessaria erit prolixior mora in mercatu : & tertia pars relinquitur redeuntibus de mercatu ad propria. Et que quidem omnia necesse erit facere de die, non de nocte, propter insidias & incursum latronum, ut omnia sint in tuto, &c. lib. 4. c. 28. §. Item refert.*

Marle, is a kind of stone or chalke, which men in divers countries of this Realme, cast upon their land to make it the more fertile. It is some where called *Malin*, anno 17. *Edward. 4. cap. 4.*

Marque, seemeth to bee a French word signifying *notam*, *vel signum*, or else to come from the German (*march i. limes*) it signifieth in the ancient statutes of our land, as much as reprisals, as anno 4. *H. 5. ca. 7.* *Marques* and *Reprisals* are used as *Synonyma*. And letters of *Marques* are found in the same signification in the same chapter. The reason may be, because the griefes whereupon these letters are sought and granted, are commonly given about the bounds and limits of every countrey : or ar

least the remedy for the same is likest there to be had by some *so-daine inrode*, and happing of such recompence of the injurie received as may most conveniently be lighted upon. See *Reprisals*. See *Marches*.

Marquis (Marchio) by the opinion of *Hotom. verbo Marchio, in verbis feudalibus*, commeth of the German *March i. limes* signifying originally as much as (*Custos limitis*) or (*Comes & prefectus limitis*: of these *Zasius* thus writeth: *de Marchione nihil comperitum est, nisi quod Gothicum vocabulum putamus.* And afterward thus: *Hujusmodi Marchionum (sive ut nos appellamus) Margraviorum origo in limitaneos, prepositos, sive duces refertur: Margrabii dicti quod limitibus, quos vulgo marken appellamus, graphii, id est, prepositi fuerunt, &c.* For in those territories, that have naturally no bounds of great strength or defence, there is need of wise and stout men toward their borders, for the keeping out of neighbour enemies. But here in England though wee have a Lord Warden of the marches northward, and a Warden of the cinque ports toward the South-east, and were wont to have Lord *Marchers* betweene us and Wales that served this turne, yet those which we call *Marquises*, are Lords of more dignity, without any such

charge; and are in honour and account next unto Dukes. At this day I know but one in England, and that is the Marquis of Winchester, beeing of that noble Family of the *Powlets*. See *Cassaneus, de consuetud. Burg. pag. 15.*

Marrow, was a Lawyer of great account that lived in Henry the seventh his dayes, whose learned Readings are extant, but not in print. *Lambert Eiren. lib. 1. ca. 1.*

Marterns, see *Furre*.

Master of the Rolles (*Magister Rotulorum*) is an Assistant unto the Lord Chauncellour of England, in the high Court of Chauncery; and in his absence heareth causes there, and giveth Orders, *Crompt. Jurisdiction, fol. 41.* His title in his Patent, as I have heard, is, *Clericus parvus bage, Custos rotulorum, & domus conversorum.* This *Domus conversorum* is the place where the Rolles are kept, so called because the Jewes in ancient time, as they were any of them brought to Christianity, were bestowed in that house separately from the rest of their Nation. But his office seemeth originally to have sprung from the safe keeping of the Rolles or Records of indictments passed in the Kings Courts, and many other things. He is called Clerke of the Rolles, *anuo 12 Ric. 2, c. 2.*

and in *Fortescue* his booke, *ca. 24*; and no where Master of the Rolls, untill *an. 11 H. 7, cap. 20.* and yet *an. 11, ejusdem, cap. 25.* hee is also called Clerke. In which respect Sir *Thomas Smith, l. 2. c. 10, de Repub. Angl.* well sayth, That hee might not unfitly be called *Custos Archivorum*. Hee seemeth to have the bestowing of the offices of the fixe Clerkes, *an. 14 & 15 Hen. 8, ca. 8.*

Master of the Mint, *an. 2 Hen. 6, ca. 14.* he is now called the warden of the Mint, whose office see in *Mint*.

Master of the Court of Wards and Liveries, is the chiefe and principall officer of the Court of Wards and liveries, named and assigned by the King, to whose custody the seale of the Court is committed. Hee at the entring upon his office taketh an oath before the Lord Chauncellour of England, well and truely to serve the King in his office, to minister equall justice to rich and poore, to the best of his cunning, wit, and power, diligently to procure all things which may honestly and justly bee to the kings advantage and profit, and to the augmentation of the rights & prerogative of the crown, truly to use the kings seale appointed to his office, to endeavor to the uttermost of his power to see the King justly answered, of all such profits, rents, revenues, and issues,

as shall yearely rise, grow, or bee due to the King in his office from time to time, to deliver with speed such as haue to doe before him ; not to take or receive of any person any gift or reward in any case or matter depending before him, or wherein the King shall bee party, whereby any prejudice, losse, hinderance, or disherison shall bee or grow to the King. *anno 33 H.8, ca.33.*

Master of the horse, is he that hath the rule and charge of the Kings stable, beeing an office of high account, and alwayes bestowed upon some nobleman both valiant and wise. This officer under the Emperours of Rome was called *Comes Jacri stabuli*. The master of the horse is mentioned, *anno 39 Eliz. cap.7,* and *anno 1 Edward 6, cap.5.*

Master of the Posts, is an officer of the kings Court, that hath the appointing, placing and displacing of all such through England as provide post horse for the speedy passing of the Kings messages and other businesse, in the thorough-fayre townes where they dwell : as also to see that they keepe a certaine number of convenient horses of their owne, and when occasion is, that they provide others wherewith to furnish such as have warrant from him to take post-horses, either from or to the seas, or other bor-

ders or places within the Realme. Hee likewise hath the care to pay them their wages, and make their allowance accordingly as hee shall thinke meet. This officer is mentioned, *an.2 E.6 ca.3.*

Master of the Armoury, is he that hath the care and oversight of his Majesties armour for his person or horses, or any other provision or store therof in any standing Armouries : with commaund, and placing or displacing of all inferiour officers thereunto appertaining. Mention is made of him, *ann. 39 Elizab. ca.7.*

Master of the Jewell-house, is an Officer in the Kings household of great credit, being allowed bouge of Court, that is, dyet for himselfe and the inferiour officers, viz. Clerkes of the Jewell house, and a speciall lodging or Chamber in court, having charge of all plate of gold, of silver double or parcell gault, used or occupied for the kings or queens bord, or to any officer of account attendant in court, and of all plate remaining in the Tower of London, of chains and loose jewels not fixed to any garment. Mention is made of this officer, *an.39 Eliz. ca.7.*

Master of the Kings Household, (*Magister hospitii*) is in his just title called grand Master of the

Kings household, and beareth the same office that hee did, that was wont to bee called Lord Steward of the Kings most honourable household, *anno 32. Hen. 8. cap. 39.* Whereby it appeareth, that the name of this Officer was then changed, and *Charles Duke of Suffolke*, President of the Kings Councell, then enjoying that office, was so to bee called ever after, so long as hee should possesse that office.

Master of the ordinance, *anno 39. El. ca. 7.* is a great officer, to whose care all the Kings Ordinance and Artillery is committed, being some great man of the Realme, and expert in martiall affaires.

Master of the Chancerie, (*Magister Cancellaria*) is an assistant in Chancerie to the Lord Chancellor, or Lord Keeper of the Broad Seale in matters of judgement. Of these there bee some ordinarie, and some extraordinary: of ordinarie there be twelve in number, whereof some sit in Court every day throughout each Terme, and have committed unto them (at the Lord Chancellers discretion) the interlocutorie report, and sometimes the finall determination of causes there depending.

Master of the Kings Musters, is a martiall officer in all royall

armies most necessarie, as well for the maintaining of the forces compleate, well armed and trained, as also for prevention of such frauds, as otherwise may exceedingly waste the Princes Treasure, and extremely weaken the forces. He hath the oversight of all the Captaines and Bands, and ought to have at the beginning delivered unto him by the Lord Generall, perfect Lists and Roles of all the forces both horse and foot, Officers, &c. with the rates of their allowances signed by the Lord Generall, for his direction and discharge, in signifying warrants for their full pay. This Officer is mentioned in the statute, *anno 2. Edw. 6. cap. 2.* and *Master master generall*, *anno 35. Elizab. cap. 4.* who so desireth to reade more of him, let him have recourse to *Master Digs his Stratoticos.*

Master of the Wardrobe (*magister garderoba*) is a great and principall officer in Court, having his habitation and dwelling house belonging to that office, Called the *Wardrobe neere Puddle-wharfe* in London. Hee hath the charge and custodie of all former Kings and Queenes ancient robes remaining in the Tower of London, and all Hangings of Arras, Tapestry, or the like, for his Majesties houses, with

with the bedding remaining in standing wardrobes, as *Hampton court, Richmond, &c.* He hath also the charging and delivering out of all either Velvet or Scarlet allowed for Liveries, to any of his Majesties servants of the Privie Chamber, or others. Mention is made of this officer, *anno 39. Eliz. cap. 7.*

Matter in deed, and matter of record, are said to differ, *Old nat. br. fol. 19.* where matter in deed, seemeth to be nothing else but a truth to be proved, though not by any Record: and matter of Record, is that which may be proved by some Record. For example: if a man be sued to an exigent, during the time hee was in the Kings warres, this is matter in deed, and not matter of record. And therefore (saith the booke) hee that will alledge this for himselfe, must come before the *Scire facias* for execution be awarded against him. For after that, nothing will serve but matter of Record; that is, some error in the Proesse appearing upon the Record. *Kitchin, fol. 216.* maketh also a difference betweene matter of Record, and a specialtie, and nude matter; where he saith, that nude matter is not of so high nature, as either a matter of Record, or a specialtie, otherwise there called matter in deed; which maketh mee

to thinke, that nude matter is a naked allegation of a thing done, to be proved onely by witnesses, and not either by Record, or other specialtie in writing under Seale.

Maugre, is shuffled up of two French words (*Mal*) and (*Gre*) i. *animo iniquo*) it signifieth with us, as much as in despite, or in despite of ones teeth, as the wife maugre the husband, *Littleton, fol. 124.* that is, whether the husband will or not.

Meane (*Medius*) signifieth the middle betweene two extreames, and that either in time or dignitie. Example of the first: His action was meane betwixt the disseisin made to him and his recoverie: that is, in the *interim*. Of the second there is Lord Meane and Tenent. See *Mesur*.

Mease (*Mesnagium*) seemeth to come of the French (*Maison*) or rather (*Maix*) which word I find in *Cassaneus de consuet. Burgund. pag. 1195.* and interpreted by him *Mansus*: what *Mansus* is, see *Mansion*. It signifieth a house, *Kitch. fol. 239.* and *Fitz. nat. br. fol. 2. C.* See *Mesnage*.

Medlese, *Cromptons Justice of peace. fol. 193.* is that which *Bracton* calleth (*medletum*) li. 3. tract. 2. cap. 35. It seemeth to signifie quarrels, scuffling, or brawling, and to be derived from the French

(*mesler. i. miscere, turbare.*)

Meere (*Merus*) though an Adjective, yet is it used for a Substantive, signifying meere right, *Qld natura brev. fol. 2.* in these words: And know yee, that this Writ hath but two issues: that is to say, joyning the mise upon the meere: And that is, to put himsele in the great assise of our Sovereigne Lord the King, or to joyne battell. See *Mise*.

Mesurement. See *Admesurement*.

Medietas lingue, signifieth an Enquest empaneled upon any cause, whereof the one halfe consisteth of Denizens, the other of Strangers. It is called in English the halfe tongue, and is used in Plee, wherein the one partie is a Stranger, the other a Denizen. See the statute, *anno 28. Ed. 3. cap. 13. & anno 27. ejusdem, statut. 2. cap. 8.* commonly called the statute of the Staple, & *an. 8. H. 6. cap. 29. & anno 2. H. 5. cap. 3. & anno 11. H. 7. cap. 21. & anno 1. & 2. Phil. & Mar. cap. 8.* And before the first of these statutes was made, this was wont to be obtained of the King by grant made to any company of Strangers, as *Lombards, Almains, &c. Starnsford, pl. cor. lib. 3. cap. 7.*

Medio acquietando, is a writ judicall, to distraine a Lord for

the acquiting of a meane Lord from a rent, which hee formerly acknowledgeth in Court not to belong unto him, *Register judiciall, fol. 29. b.*

• *Melius inquirendo*, it a writ that lieth for a second inquirie, as what lands and tenements a man died seised of, where partiall dealing is suspected upon the writ, *Diem clausit extremum. Fitzb. nat. br. fol. 255.*

Merchenlage, was one of the three sorts of lawes, out of which the Conquerour framed Lawes unto us, mingled with those of *Normandie, Camd. Britan. pag. 94.* who also, *pag. 103.* sheweth that in the yeere of our Lord 1016. this land was divided into three parts, whereof the West Saxons had one, governing it by the Lawes called West Saxon Lawes, and that contained these nine Shires, *Kent, Southsex, Southrey, Barkeeshire, Hampshire, Wiltshire, Somerset, Dorset, and Devonshire.* The second by the Danes, which was governed by the Lawes called *Denelage*, and that contained these fifteene Shires: *Torke, Darby, Nottingham, Leicester, Lincolne, Northampton, Bedford, Buckingham, Hartford, Essex, middlesex, Northf. Southf. Cambridge, Huntingdon.* The third was possessed and governed by the Mercians, whose Law was called *Merchenlage*; which were these eight

eight, Gloucester, Worcester, Hereford, Warwick, Oxford, Chester, Salop, and Stafford. See *Law*.

Mercy (*Misericordia*) signifieth the arbitrement or discretion of the King or Lord, in punishing any offence, not directly censured by the law. As to be in the grievous mercie of the King, anno 11. H. 6. cap. 6. is to be in hazard of a great penaltie. See *Misericordia*.

• *Measondue*, (*domus Dei*) cometh of the French (*maison de dieu*) by which names divers Hospitals are named. You find the word, anno 2. & 3. Philip. & Mar. cap. 23. in fine.

• *Mese*. See *Mease*.

Mesn (*medius*) seemeth to come from the French (*mainfne*. i. minor natus) it signifieth in our Common Law, him that is Lord of a manour, and thereby hath Tenents holding of him, yet holding himselfe of a Superiour Lord. And therefore it seemeth not absurdly to bee drawne from the French (*mainfne*) because the Lordship is created after the higher, whereof hee holdeth. *Mesn* also signifieth a writ, which lyeth where there is Lord, *mesn*, and tenent, the tenent holding of the *mesn* by the same services, whereby the *mesn* holdeth of the Lord, and the tenent of the *mesn* is distrained by the superi-

our Lord, for that his service or rent, which is due to the *Mesn*. Fitzherbert, nat. brev. fol. 135. See *Mesnaltie*.

Mesnaltie (*medietas*) cometh of *Mesn*, and signifieth nothing but the right of the *Mesn*: as, the *Mesnaltie* is extinct, *Old nat. br. fol. 44.* if the *Mesnaltie* descend of the tenent, *Kitchin, fol. 147.* For farther understanding whereof, take these words out of the Customarie of Norm. *Medietate tenentur feuda, quando aliqua persona intervenit inter Dominum & tenentes. Et hoc modo tenent omnes postnati, medietate ante nato.*

Messenger of the *Exchequer*, is an officer there, of which sort there be foure in that Court, that be Pursuivants attending the lord Treasurer, to carry his Letters & Precepts. See *Pursuivant*.

Mesuage (*mesuagium*) is a dwelling house, *West, parte 2. symbol. titulo Fines. Sect. 26.* But by the name of a mesuage may passe also a Curtilage, a Garden, an Orchard, a Dove house, a Shop, a Mill, as parcell of an house, as he himselfe confirmeth out of *Bracton, lib. 5. cap. 28. Sect. prim.* and *Plowden, fol. 199, 170, 171.* and of himselfe hee avoucheth the like of a Cottage, a Tost, a Chamber, a Celler, &c. yet may they bee demanded by their single names. *Mesuagium* in Scotland, signifieth the principall dwelling

place or house within a Baronie, which in our land is called a Manor house, *Skene de verb. signific. verbo, Mesuagium*, where he citeth *Valentine Leigh*, that in his Booke of Survey hee affirmeth *Mesuagium*, to be the tenement or land earable; and the dwelling house or place, or Court Hall thereof; to be called the Site, in Latine called *Situs*.

Mile (milliare) is a quantitie of a thousand paces, otherwise described to containe eight furlongs, and every furlong to containe forty lugs or poles, and everie lug or pole to containe 16. foot and a halfe, *anno 35. Eliz. cap. 6.*

Mildervix, *anno 1. Jacobus, cap. 24.*

Mindbruch, is hunting of honour and worship. *Saxon* in his description of *Engl. ca. 71.*

Miniver. See *Furre*.

Minoverie, *anno 7. R. 2. ca. 4.* seemeth to bee compounded of two French words (*main. i. manus*) and (*ouvrer. i. operari*) and to signifie some trespassse or offence committed by a mans handie worke in the Forest, as an engine to catch Deere. *Briston* useth the verbe (*meinoverer*) for to occupie and manure land, *cap. 40.* and *cap. 62. main-ovre*, for handie worke. It is not unlike, that our English (*manure*) is abbreviated of the French.

Mint, commeth of the Germane word (*meunk. i. pecunia, moneta*) and it signifieth with us, the place where the Kings Coine is formed, be it Gold or Silver, which is at this present, and long hath beene, the Tower of London, though it appeare by divers Stories, and other Antiquities, that in ancient times, the Mint hath been also at *Colein, an. 21. R. 2. cap. 16. & anno 9. H. 5. stat. 5. cap. 5.* The Officers belonging to the Mint, have not beene alwayes alike. At this present they seeme to be these: The Warden, who is the chiefe of the rest, and is by his office to receive the Silver of the Goldsmiths, and to pay them for it, and to over-see all the rest belonging to this function. His fee is an hundred pounds *per annum*. The Master-worker, who receiveth the Silver from the Warden, causeth it to be melted, and delivereth it to the moniers, and taketh it from them againe, when it is made. His allowance is not any set fee, but according to the pound weight. The third is the Controller, who is to see that the money be made to the just assise, to over-see the officers, and controll them, if the money be not as it ought to be: his fee is one hundred markes *per annum*. Then is the Master of the Assay, who weigheth the silver, and seeth whe-

whether it be according to standard : his yearely fee is also an hundred markes. Then is the Auditour to take the accompts, and make them up Auditor-like. Then is the Surveyor of the melting, who is to see the silver cast out, and not to be altered after it is delivered to the Melter : which is after the Assay-master hath made triall of it. Then is the Clerke of the Irons, who seeth that the Irons bee cleane, and fit to worke with. Then the Graver, who graveth the stampes for the moneys. Then the Smyters of Irons, who after they be graven, smiteth them upon the money. Then the Melters, that melt the Bullion, before it come to the coyning. Then the Blanchers, who doe aneale, boyle, and cleanse the money. The Porter, who keepeth the gate of the mint. The Provost of the mint, who is to provide for all the moniers, and to over-see them. Lastly, the moniers, who are some to sheere the money, some to forge it, some to beate it abroad, some to round it, some to stampe or coyne it. Their wages is not by the day or yeare, but uncertaine, according to the weight of the money coyned by them. Other officers that have been in former time, are said now to be out of use.

Misaventure, or misadventure, commeth neere the French (*mesaventure. i. infortunium.*) In our common law, it hath an especial signification for the killing of a man, partly by negligence, and partly by chance. As if one thinking no harme, dissolutely throweth a stone, wherewith he killeth another : or shooteth an arrow, &c. For in this case hee committeth not felony, but onely looseth his goods, and hath pardon of course for his life. *Stawnsf. pl. cor. lib. 1. ca. 8. Britton ca. 7.* distinguisheth between *Aventure* and *misaventure*. *Aventure* hee maketh to bee meere chance, as if a man being upon or neere the water, be taken with some sodaine sicknesse, and so fall in, and is drowned, or into the fire, and bee burned to death. *Misaventure* hee maketh, where a man commeth to his death by some outward violence, as the fall of a tree, or of a gate, the running of a cart-wheele, the stroke of a horse, or such like. So that *misaventure* in *Stawnsfords opinion*, is construed somewhat more largely, then *Britton* understandeth it. *West. parte 2. symbol. titulo Inditement, sect. 48.* maketh homicide casuall, to be meere casuall or mixt. Homicide by meere chance, hee defineth *sect. 49.* to be, when a man is slaine by meere fortune, against the

mind of the killer; as if one hewing, the Axe flieth off the haft, and killeth a man. And this is all one with *Brittons misaventure*. Homicide by chance mixed, he defineth, *Secſt.* 50. to be, when the killers ignorance or negligence is joyned with the chance: as if a man loppe Trees by a high way ſide, by which many uſually travell, and caſt downe a bough, not giving warning, &c. By which bough, a man paſſing by, is ſlaine.

Miscontinuance, Kitchin, fol. 231. See *Discontinuance*.

Miſe (*miſa*) is a French word ſignifying as much as (*expensum*) in Latine, and the Latine word (*Miſa*) is ſo uſed in *Kitchin, fol.* 144. and in *West, parte 2. ſymbol. titub.* Proceedings in Chancerie, *Secſt.* 21. *F.* It is uſed *anno 2. & 3. Ed. 6. ca. 36.* for a ſumme of money paid by the Kings tenents in certaine Countieſ in *Wales* according to their ſeverall cuſtomes. In the ſtatute 33. *H. 8. ca. 13.* it is uſed plurally, for certaine cuſtomarie gratuities ſent to the Lord Marchers of *Wales*, by their Tenents, at their firſt comming to their lands. And *anno 4, & 5. Ph. & Ma. cap. 11.* *Miſe* is uſed in an action of right or propriety, for the point where-upon the parties proceed to triall, either by Aſſiſe or battell: as iſſue is in an action perſonall; if

the *Miſe* be upon battell, *Littleton, fol. 102.* and in the *Old nat. br. fol. 2.* you have theſe words: Know yee that this writ hath but two iſſues: that is to ſay, joyning the miſe upon the meere, and that is, to put himſelfe into the great Aſſiſe of our Sovereigne Lord the King, or to joyne battell. See *anno 37. Ed. 3. cap. 16.* To joyne the miſe upon the meere, is as much to ſay, as to joyne the miſe upon the cleere right, and that in more plaine termes is nothing elſe, but to joyne upon this point, whether hath the more right, the Tenent or Demandant. *Littleton, lib. 3. cap. 8. fol. 101. b.* This word in ſome other place is uſed for a Participle, ſignifying as much as (*caſt or put upon*) in Engliſh, which appeareth by Sir *Ed. Cokes* report in *Saffins caſe*, *vol. 6. fol. 124. a.*

Miſericordia, is uſed in the common law, for an arbitrarie puniſhment, *Bracton, li. 4. tractat. 5. cap. 6.* in theſe words: *Item ſiquis in miſericordiam inciderit pro diſſeiſina, non remanebit miſericordia exigenda, ſi ille qui amiſerit, queſiverit convictionem.* *Kitchin, fol. 78.* out of *Glanvile* ſaith thus: *Eſt autem miſericordia, quia quis per juramentum legalium hominum amerciatus eſt, ne aliquid de ſuo bonorabili contentemento amittat.* Which ſaying you have in a manner word for word in *Glanvile,*

lib. 9. cap. 11. Fitzberbert saith, that it is called *miserericordia*, because it ought to be very moderate, and rather lesse then the offence, according to the tenure of the great Charter, *cap. 14.* This saith Fitzberbert in his *nat. brev.* in the writ *De moderata misericordia*, fol. 75. *A. 1.* *Miserericordia* is to be quit of *miseriors*, that is, to be discharged of all manner of amercements, that a man may fall into within the Forest. See *M. Cromptons Jurisdiction*, fol. 196. See *Amerciamentum*. See *Mercie*, and *Moderata misericordia*.

Miskenning. i. changing of speech in Court. *Saxon* in the description of *Engl. cap. 11.*

Misnomer, is compounded of the French (*mis.*) which in composition alwaies signifieth as much as (*avisse*) and (*nomer. i. nominare*) It signifieth in our common law, the using of one name for another, or mis-terming. *Brooke, titulo Misnomer.*

Misprision (*mispriso*) commeth of the French (*Mespris. i. fastidium, contemptus.*) It signifieth in our common law, neglect, or negligence, or over-sight: As for example, Misprision of treason, or of felonie, is a neglect or light account shewed of treason, or felonie committed, by not revealing it, when we know it to be committed; *Stawns. pl. cor. li. 1. ca. 19.*

which reade at large: or by letting any person committed for treason or felonie, or suspicion of either, to goe before he be indicted. Also Misprision of Clerks, *ann. 8. H. 6. ca. 15.* is a neglect of Clerks in writing, or keeping Records. Thirdly, *anno 14. Ed. 3. ca. 6. stat. prim.* by misprision of Clerks no processe shall be admitted. Misprision of treason, is the concealement, or not disclosing of knowne treason, for the which the offendours are to suffer imprisonment during the Kings pleasure, lose their goods, and the profits of their lands, during their lives. *Crompton in his Justice of Peace, cap.* Misprision of felonie, fol. 40. *West, parte 2. symbol. titulo Inditeiments, Sect. 63. in fine.* Misprision of felonie, seemeth onely finable by the Justices, before whom the partie is attainted. *Cromptons Justice of Peace, ubi supra.* The Justices of the common place have power to asseffe fines and amerciaments upon persons offending for misprisions, contempts, or negligences, for not doing, or mis-doing any thing, in or concerning fines, *West, parte 2. symbol. titulo Fines, Sect. 133.* Justices of Assise shall amend the defaults of Clerkes misprising of a Syllable or Letter or writing, *Cromptons Jurisdiction*, fol. 208. But it is to be noted, that other faults may

be accounted Misprisions of treasons or felonie, because certaine latter statutes do inflict that punishment upon them; that of old hath beene inflicted upon Misprisions, whereof you have an example, *anno 14. Eliz. ca. 7.* of such as coine forreine Coines not current in this Realme, and of their Procurers, Aiders, and Abettors. And see the new exposition of Law Termes. Misprision signifieth also a mistaking; *anno 14. Ed. 3. stat. pri. ca. 6.*

Misses. See *Mise*.

Misuser, is an abuse of libertie or benefit: As he shall make fine for his misuser, *Old nat. brev. fol. 149.*

Mysterie (*mysterium*) cometh of the Latine (*mysterium*) or rather from the French (*mestier*. i. *ars, artificium*) an art, or occupation.

Mittendo manuscriptum pedis finis, is a writ Judiciall, directed to the Treasurer and Chamberlaines of the Exchequer, to search and transmit the foot of a fine, acknowledged before Justices in Eyre, into the Common plects, &c. *Register, fol. 14. a. b.*

Mittimus, signifieth a Precept sent by the King out of his Bench, to those that have the custodie of fines levied, that they send them by a day assigned to his Bench, *West, parte 2. symb. titulo*

Fine. Sec. 138. F. & 154. B. and also to the Exchequer for certificate that judgement is given for the livery of lands to such or such a one, out of the Kings hands: whereupon hee is dismissed also out of the Exchequer, *an. 5. R. 2. ca. 15.* of divers other uses and applications of this (*Mittimus*) see the Register originall in the Table of the booke.

Moderata misericordia, is a writ that lieth for him that is amerced in Court Baron or other, being not of Record, for any transgression or offence beyond the qualitie of a fault. It is directed to the Lord of the Court, or his Bailiffe, commanding them to take a moderate amerciament of the partie; and is founded upon *Magna charta, ca. 14. Quid nullus liber homo amercietur nisi secundum qualitatem delicti, &c.* The rest touching this writ, see in *Fitzh. nat. br. fol. 75.* See *Misericordia*.

Modo & forma, are words of Art in a Proceffe, and namely in the answer of the Defendant, whereby he denieth himselfe to have done the thing laid to his charge, *modo & forma declarata, Kitchin, fol. 232.* It signifieth as much, as that clause in the civill law, *Negat allegata, prout allegantur, esse vera.*

Moirie, cometh of the French (*Moirie*) id est, *coequa vel medi-*

media pars) and signifieth the halfe of any thing, *Latitron*, fol. 125.

Monke cloths, anno 20. Hen. 6. cap. 10.

Moniers (*monetarii*) Register originall, fol. 262. b. & anno 1. Ed. 6. ca. 15. be Ministers of the Mint, which make and coyne the Kings money. It appeareth by some Antiquitie which I have scene, that in ancient times our Kings of England had Mints in most of the Countries of this Realme. And in the Tractate of the Exchequer, written by *Ockham*, I finde, that whereas the Sheriffes ordinarily were tyed to pay into the Exchequer, the Kings Sterling, for such debts as they were to answer, they of *Northumberland*, and *Cumberland*, were at libertie to pay in any sort of money, so it were Silver. And the reason is there given, because those two Shires, *monetarios de antiqua institutione non habent*.

Monstrance de droyt, is as much to say, as shewing of his right. It signifieth in our common Law, a suit in Chancery to be restored to lands or tenements, that indeed be mine in right, though they were by some office found to be in possession of another lately dead. See *Stamns. prerog. cap. 21.* at large, and *Broke*, titulo *Petition*. Of this also reade Sir

Edward Cokes Reports, lib. 4. fol. 54. b. &c. *The Wardens of the Sudleys case*.

Monstraverunt, is a writ that lieth for tenents that hold freely by Charter in ancient Demeane, being distreined for the payment of any tolle or imposition, contrary to their libertie, which they doe or should enjoy, which see in *Fitzb. nat. br. fol. 14.*

Moriam, is all one in signification with the French (*Morion. i. cassis*) a head piece: which word the French man borroweth from the Italian (*morione*) anno 4. & 5. *Pb. & Ma. ca. 2.*

Morling, alias *mortling*, seemeth to be that wooll which is taken from the skin of a dead Sheepe, whether dying of the rotte, or being killed, anno 27. H. 6. ca. 2. This is written *Morkin*, anno 3. *Jaco. ca. 8.*

Mort d'ancestor. See *Affise*.

Mortgage (*mortuum vadum, vel mortgagium*) is compounded of two French words (*mort, id est, mors*) and (*gage, id est, pignus, merces*) It signifieth in our common Law, a pawne of land or tenement, or any thing moveable, laid or bound for money borrowed, peremptorily to be the Creditours for ever, if the money bee not paid at the day agreed upon. And the Creditour holding land or tenement upon this bargaine, is in the meane time

time called Tenent in mortgage. Of this wee reade in the grand Customarie of Normandy, cap. 1. & 3. in these words: *Notandum insuper est, quod vadium quoddam vivum, quoddam mortuum nuncupatur. Mortuum autem dicitur vadium, quod se de nibilo redimit & acquietat, ut terra tradita in vadium pro centum solidis, quam cum obligator retrahere voluerit, acceptam pecuniam restituet in solidum. Vivum autem dicitur vadium, quod ex suis proventibus acquiratur. Ut terra tradita in vadium pro centum solidis usque ad tres annos, quæ elapsio tertio anno, reddenda est obligatori, vel tradita in vadium, quousq; pecunia recepta de ejusdem proventibus fuerit persoluta.* Glanville likewise lib. 10. cap. 6. defineth it thus: *mortuum vadium dicitur illud, cujus fructus vel redditus interim percepti in nullo se acquietant.* So you see by both these Bookes, that it is called a dead gage, because whatsoever profit it yeeldeth, yet it redeemeth not it selfe by yeelding such profit, except the whole sum borrowed be likewise payd at the day. See Skene de verb. significat. eodem. He that layeth this pawn or gage, is called the Mortgager, and he that taketh it, the Mortgagee, West, parte 2. symb. titulo Fines. Sect. 145. This, if it containe excessive usurie, is prohibited, anno 37. H.8. ca. 9.

Mortmaine (*Manus mortua*) is compounded of two French words (*Mort. i. mors*) and (*Main. i. manus*.) It signifieth in the common law, an alienation of lands or tenements to any Corporation, Guilde, or Fraternitie, and their successours, as Bishops, Parsons, Vicars, &c. which may not be done without license of the King, and the Lord of the manor. The reason of the name proceedeth from this, as I conceive it, because the services and other profits due for such lands, as Escheates, &c. commeth into a dead hand, or into such a hand as holdeth them, and is not of power to deliver them, or any thing for them back againe. *Magna charta*, cap. 36. & anno 7. Ed. prim. commonly called (the statute of *Mortmaine*) and anno 18. Ed. 3. statut. 3. cap. 3. & anno 15. Richard 2. cap. 5. Polydur. Virgil in the seventeenth booke of his Chronicles, maketh mention of this law, and giveth this reason of the name. *Et legem banc manum mortuam vocarunt, quod res semel data collegiis sacerdotum, non utique rursus venderentur, velut mortue, hoc est, usui aliorum mortalium in perpetuum ademptæ essent. Lex diligenter servatur, sic ut nihil possessionum ordinis sacerdotali à quoquam detur, nisi Regio permissa.* But the former statutes be something abridged by

by anno 39. Elizabeth, cap. 5. by which the gift of land, &c. to Hospitals, is permitted without obtaining of Mortmaine. *Hotomani* in his Commentaries de verbis feudal. verbo *Manus mortua*, hath these words: *Manus mortua locutio est, qua usurpatur de iis, quorum possessio, ut ita dicam, immortalis est: quia nunquam heredem habere desinunt. Quà de causâ res nunquam ad priorem dominum revertitur. Nam manus pro possessione dicitur, mortua pro immortalis. Sic municipium dicitur non mori, l. An usus fructus, 56. D. de usufr. legat. quoniam hominibus aliis succrescentibus, idem populi corpus videtur. l. proponebatur, 76. D. de Judiciis: Hec *Hotomani*; and reade the rest. *Amortizatio*, est in manum mortuam translatio Principis jussu. *Petrus Belluga* in speculo principum: fol. 76. Jus amortizationis est licentia capiendi ad manum mortuam. *Idem*, eodem. where you may reade a learned Tractate, both of the beginning and nature of this Doctrine. To the same effect you may reade *Cass. de consuet. Burg.* pag. 348, 387, 1183, 1185. 1201, 1225, 1285. 1218, 1274. *M. Skene de verbo*. signif. saith that *Dimittere terras ad manum mortuam*, est idem atque *dimittere ad multitudinem sive universitatem, quæ nunquam moritur; idque per antiphrasim, seu à contrario sensu*, because commonalties never die.*

Mortuarie (*Mortuarium*) is a gift left by a man at his death, to his parish Church, for the recompence of his personall Tithes and Offerings not duely paid in his life time. And if a man have three, or more cattell of any kinde the best being kept for the Lord of the Fee, as a *Heriot*; the second was wont to be given to the parson in right of the Church, *ca. statutum. De consuetu. in provincial.* Touching this you have two Statutes; one anno 13. *Edw. pri.* commonly called, *Circumspectè agatis*: whereby it appeareth, that Mortuaries are suable in the Court Christian; the other, anno 21. *H. 8. ca. 6.* whereby is set downe an order and rate in money for Mortuaries.

Mulier, as it is used in the common law, seemeth to be a word corrupted, and used for (*Melior*) or rather the French (*Melieur*.) It signifieth the lawfull issue preferred before an elder Brother borne out of Matrimonic; anno *H. 6. ca. 11. Smith de repub. Anglo. lib. 3. ca. 6.* But by *Glanville, lib. 7. ca. 11* the lawfull issue seemeth rather (*Mulier*): then (*Melior*) because it is begotten (*è muliere*) and not (*ex Concubinâ*) for he calleth such issue *filius mulierates*, opposing them to Bastards. And *Britton, ca. 70.* hath *frere mulier* i. the Brother begotten of the wife,

opposite to *fiere bastard*. This seemeth to bee used in Scotland also : For Master Skene, *de verborum significat*, verbo *Mulieratus filius*, sayth, That *Mulieratus filius* is a lawfull sonne, begotten of a lawfull wife. *Quia mulieris appellatione uxor continetur*. l. *Mulieris* 13, & *ibidem*. *Glossa de verborum significati-one*.

Mulmutum lawes. See Law.

Multure (*Molitura*, vel *Multura*) commeth neere the French (*Moulture*) and signifieth in our common Law, the tolle that the Miller taketh, for grinding of corne.

Murage (*Muragium*) is a tolle or tribute to be levied for the building or repairing of publike edifices or walles. *Fitzsberberts Nat. Brev. fo. 227 d.* *Murage* seemeth also to bee a liberty granted by the King to a towne, for the gathering of money toward walling of the same. anno 3 *Edw. 1.*, ca. 30.

Murder (*murdrum*) is borrowed of the French (*Mourtrier*, i. *Carnifex*, *homicida*) or *Meurtre*, i. *internecio*, *homicidium*. The new Expositor of the Law-Teames draweth it from the Saxon word (*Morden*) signifying the same thing. It signifieth in our common law, a wilful and felonious killing of another upon prepenfed malice, anno 52. *H. 3*

ca. 25. *West*, parte 2, *Symbol. titulo Inditumens*, Sect. 47. *Bracton*, li. 3, *tract. 2*, ca. 15, *uv. 1*, defineth to be, *homicidium, quod nullo presentie, nullo sciuntie, nullo audientie, nullo vidente, etiam perpetratur*. And of the same mind is *Britton*, c. 6. as also *Fleta*, lib. 1, cap. 30. Yet *Fleta* saith also, That it was not murther, except it were proved the party slaine were English, and no stranger. But as *Stamf.* sayth, *pl. Cor. li. 1, cap. 2*, the law in this point is altered by the statute, anno 14 *Edward 3* cap. 4. and murther is now otherwise to bee defined. When a man upon prepenfed malice killeth another, whether secretly or openly, it maketh no matter : or bee hee an Englishman, or a forreiner living under the kings protection. And prepenfed malice is heere either expresse or implied : Expresse, when it may bee evidently proved that there was formerly some evill will implied : when one killeth another suddenly having nothing to defend himselfe, as going over a stile, or such like, *Cromptons Justice of peace*, in the Chapter of Murther, fol. 19, b. See Master Skene, *de verbor. significat. Verbo Murdrum*. This by the Latine interpreter of the grand Customary of Normandie, is called *Multrum*. cap. 68. See *Were*.

Muster, commeth of the French

(*manstre*, i. *specimen spectamen exemplum*) as *seire manstre generale de toute son armee*, is as much as *to be are exercitum*. The signification is plaine. Mustred of record, anno 18 Henr. 6, cap. 19, seemeth to be *dare nomen*, or to be inrolled in the number, of the Kings souldiers. Master of the kings mulsters, *m. 2 Ed. 6, ca. 2*, see *Musters*.

Master-master generall, anno 35 Eliz. ca. 4. See *Master of the Kings Musters*.

N A

N *Aam* (*Namium*) seemeth to come from the Dutch word *nemmen*, i. *capiō*. It signifieth in our common law, the taking or apprehending of another mans moveable goods: and is either lawfull or unlawfull. Lawfull *naam* is nothing else but a reasonable distress, proportionable to the value of the thing distressed for: and this *naam* was anciently called either *vis* or *mort*, quicke or dead, according as it is made of dead or quicke chatels. Lawfull *naam* is so, either by the common law, or by a mans particular fact: by the common Law, as when one taketh another mans beasts damage seisant in his grounds: by a mans particular fact, as by reason of some contract made, that for default of payment of an annuity agreed up-

on, it shall be lawfull to distress in such or such lands, &c. *Hornes Mirrour of Justices, lib. 2, ca. de vec. de naam*, where you may reade of other circumstances required in lawfull *naam*, viz. of what thing or of what things first, in what maner, on what dayes, and at what houses it ought to be made: with other points worth the reading, for the understanding of our Law Antiquities. See *Withernam*.

Nasse, anno 4 Henr. 7, ca. 21, seemeth to be the proper name of Orford Haven. Whether it bee so tearmed of the boats or water Vessells that lie there, or not, let the Reader judge. But *nasselle* is in French a kind of small boat.

Nativo habendo is a writ that lieth to the Sheriffe for a Lord, whose Villeine claimed for his inheritance, is runne from him, for the apprehending and restoring of him to his Lord againe: *Regist. Orig. fo. 87. Fitz. Nat. Brev. fo. 77. See Libertate probanda*.

Naturalization, See *Denizen*.

Ne admittat, is a writ that lieth for the plaintife in a *Quare impedit*, or him that hath an action of *Darrein presentment* depending in the common Bench, and feareth that the Bishop will admit the Clerke of the Defendant, during the suit betweene

them. And this writ must be sued within fixe moneths after the avoydance. Because after the fixe moneths the bishop may present by lapse. *Register originall, fol. 31. Fitz. nat. br. fol. 37.* where see the rest.

Negative pregnant (*Negativa pregnant*) is a negative implying also an affirmative. As is a man being impleaded, to have done a thing upon such a day, or in such a place, denieth that hee did it *modo & forma declarata* : which implyeth neverthelesse, that in some sort hee did it. Or if a man be said to have alienated land, &c in fee; hee denying that hee hath alienated in fee, seemeth to confesse that hee hath alienated in some other sort. *Dyer, fol. 17. num. 95. See Brooke boctiulo, and Kitchen, fol. 237.* And see the new exposition of law termes. And reade also in some Civilians, of *Affirmativa pregnant*, and that is, *qua habet in se inclusivam negativam*. Et hoc importare videntur dictionis (*Solum & tantum, qua implicat negativam*) *Pacianus. De probationibus, lib. 1. cap. 31. nu. 16. fol. 93.*

Nais (*nativa*) cometh of the French (*Nais. i. naturalis, vel nationis*) it signifieth in our common law, a bond woman, *anno 1. Ed. 6. cap. 3.* the reason is, because women become bound rather *nativitate*, then by any other means.

Neinjus te vices, is a writ that lyeth for a Tenent, which is distreined by his Lord, for other services then hee ought to make; and is a prohibition to the Lord in it selfe, commanding him not to distreine. The especiall use of it is, where the Tenent hath formerly prejudiced himselfe by performing more services, or paying more rent without constraint, then he needed. For in this case, by reason of the Lords seisin, hee cannot avoid him in avowry: and therefore he is driven to this writ as his next remedie, *Regist orig. fol. 4. Fitz. nat. br. fol. 10.*

Ne vicecomes colors mandati Regis quinquam amoveat à possessione ecclesie minus justè, *Register orig. fol. 61.*

Nient comprise, is an exception taken to a petition as unjust, because the thing desired, is not contained or comprehended in that act or deed, whereupon the petition is grounded. For example, one desireth of the court, to be put in possession of a house formerly among other lands, &c. adjudging unto him. The adverse party pleadeth, that his petition is not to be granted, because though hee had a judgement for certaine lands and houses: yet the house into the possession whereof he desireth to be put, is not contained among those for the which hee had

had judgement. See the new book of Enteries, *titulo Nient comprise*. This seemeth to be especially to hinder execution.

Nisi, anno 3. Ed. 4. cap. 5.

Nihil, anno 5. R. 2. stat. 1. cap. 3. is a word set upon a debt illeivable, by the forreine Apposer in the Exchequer.

Nihil dicit, is a falling to put in answer to the Plee of the Plaintiffe by the day assigned, which if a man doe commit, judgement passeth against him, as saying nothing why it should not.

Nisi prius, is a writ judiciall, which lieth in case, where the Enquest is paneled, and returned before the Justices of the Banke, the one partie or the other making petition, to have this writ for the ease of the Countrie. It is directed to the Sheriffe, commanding that hee cause the men impaneled to come before the Justices in the same Countie, for the determination of the cause there, except it bee so difficult, that it need great deliberation. In which it is sent againe to the Banke, v. anno 14. Edw. 3. cap. 15. The forme of the writ, see in *Old nat. br. fol. 159.* and in the *Register judiciall*, fol. 75. & 28. & 75. See the new booke of Entries, *verbo*, *Nisi prius*. And it is called (*Nisi prius*) of these words comprised in the

same, whereby the sheriffe is willed to bring to *Westminster*, the men empaneled at a certaine day, or before the Justices of the next Assises : *Nisi die Lune apud talem locum prius venerint*, &c. whereby it appeareth, that Justices of Assises, and Justices of (*Nisi prius*) are differing. And Justices of (*Nisi prius*) must be one of them, before whom the cause is depending in the Bench, with some other good man of the Countie associated unto him, *Fitzherb. nat. brev. fol. 240. E.* which he taketh from the Statute of Yorke, anno 12. Ed. 2. See *Westm. 2. cap. 30. anno 13. Edw. prim. & anno 27. ejusdem, cap. 4. & anno 2. Edw. 3. cap. 17. & anno 4. ejusdem, cap. 11. & anno 14. ejusdem, cap. 16. & anno 7. Rich. 2. cap. 7. & anno 18. Eliz. cap. 12.*

Nobility (nobilitas) in England compriseth all dignities above a Knight. So that a baron is the lowest degree thereof. *Smith de Repub. Anglor. lib. prim. ca. 17. Bartolus* in his Tractate *De Nobilitate*, which he complied upon the law, *Si ut proponis C. de dignitatibus, libro 12.* rehearseth foure opinions *de Nobilitate*, but rejecteth them, and himselfe defineth it thus : *Nobilitas est qualitas illata per principatum tinentem, qua quis ultra honestos plebeios acceptus ostenditur.* But

this definition is too large for us, except we will account knights and banerets *inter plebem*, which in mine opinion were too harsh. For *Equites* among the Romans were in a middle ranke, *inter Senatores & plebem*.

Nocumeto, see *Nusance*.

Nomination (*nominatio*) is used by the Canonists and common Lawyers, for a power that a man by vertue of a mannour or otherwise, hath to appoint a Clerke to a Patron of a Benefice, by him to bee presented to the Ordinary. New Termes of the Law.

Non-ability, is an exception taken against the plaintife or demandant upon some cause, why hee cannot commence any suite in Law, as *Præmunire*, *Outlawry*, *Vilkenage*, or *Excommunication*, or because he is a stranger borne. The Civilians say, That such a man hath not *personam stundi in iudicio*. See *Brooke*, *hoc titulo*. See *Fitzb. nat. Brev. fo. 35 a. fo. 65 d. fo. 77 c.* The new expositor of Law Termes reckoneth six causes of *Non-ability*, as if hee bee an Outlaw, a stranger borne, condemned in a *Præmunire*, professed in religion excommunicate, or a *Vilaine*. Howbeit the second cause holdeth onely in actions reall or mixt, and not in personall, except he bee a stranger and an enemy.

Non admittas, See *ne admittas*.

Non-age, is al the time of a mans age under one and twenty years in some cases, or fourteene in some, as marriage. See *Brooke titulo Age*. See *Age*.

Non capiendo clericum, see *Clerico non capiendo*.

Non-clayme, *Cromptons Jurisdic. fo. 144*, seemeth to bee an exception against a man that claimeth not within the timelimited by Law, as within the yeare and day, in case where a man ought to make continuall Clayme, or within five yeares after a fine levied. *Vide Cooke, lib. 4, in Proemio*. See *Continuall clayme*.

Non compos mentis, is of foure sorts: First, hee that is an Ideot borne. Next, hee that by accident afterward, wholly loseth his wits: Thirdly, a Lunatick, that hath sometime his understanding, and sometime not. Lastly, hee which by his owne act depriveth himselfe of his right minde for a time, as a Drunkard: *Coke, li. 4. fol. 124 b.*

Non distringendo, is a writ comprising under it divers particulars, according to divers Cases, all which you may see in the Table of the Register origin. *verbo non distringendo*.

Non est culpabilis, is the general

nerall answere to an action of Trespasse, whereby the Defendant doth absolutely denie the fact imputed unto him by the plaintiffe, whereas in other especiall answers, the Defendant granteth a fact to bee done, and alleageth some reason in his defence, why hee lawfully might doe it. And therefore whereas the Rhetoricians, comprise all the substance of their discourses, under three questions, *An sit, quid sit, quale sit*, this answere falleth under the first of the three: all other answers are under one of the other two. And as this is the generall answere in an action of trespassse, that is, an action criminall civillie prosecuted: so is it also in all actions criminally followed, either at the suit of the King or other, wherein the Defendant denieth the crime objected unto him. See the new booke of Entries, *titulo Non culpabilis*, and *Stawns. pl. cor. lib. 2. cap. 62.*

Non est factum, in an answere to a declaration, whereby a man denieth that to be his deed, whereupon hee is impleaded. *Brooke, hoc titulo.*

Non implacitando aliquem de libero tenemento sine brevi, is a writ to inhibit Bailiffes, &c. from distreining any man without the Kings writ, touching his freehold, *Registr. fol. 171. b.*

Non intromittendo quando breve precipe in capite subdole impetratur, is a writ directed to Justices of the bench, or in Eyre, willing them not to give one hearing, that hath under the colour of intisling the King to land, &c. as holding of him in *capite*, deceitfully obtained the writ called, *Precipe in capite*; but to put him to his writ of right, if hee thinke good to use it, *Registr. originall, fol. 4. b.*

Non mercandizando victualia, is a writ directed to the Justices of Assise, commanding them to inquire whether the Officers of such a towne doe sell victuals in grosse, or by re-taile, during their Office, contrary to the statute, and to punish them, if they find it true, *Registr. fol. 184.*

Non molestando, is a writ that lieth for him, which is molested contrarie to the Kings protection granted him, *Registr. fol. 24.*

Non omittas, is a writ lying where the Sheriffe delivereth a former writ to a Bailiffe of a Franchise, within the which the partie, on whom it is to be served, dwelleth, and the Bailiffe neglecteth to serve it: for in this case, the Sheriffe returning, that he delivered it to the Bailiffe, this shall be directed to the Sheriffe, charging him himselfe, to execute the Kings commandement, *Old nat. brev. fol. 44.* of this the *Registr.*

Regist. orig. hath three sorts, fol. 82. b. & 151. and the *Reg. judic.* one, fol. 5, & 56.

Non ponendo in Assis & Juratis, is a writ founded upon the *stat. Westm. 2. ca. 38.* and the *stat. Articuli super chartas. ca. 9.* which is granted upon divers causes to men, for the freeing them from Assises and Juries. See *Fitz. nat. br. fol. 165.* See the *Register*, fol. 179, 100, 181, 183:

Non procedendo ad Assisam Rege inconsulto, is a writ to stop the triall of a cause appertaining unto one, that is in the Kings service, &c. untill the Kings pleasure be farther knowne, *Register fol. 220. a.*

Non residentia pro clericis Regis, is a writ directed to the Ordinarie, charging him not to molest a clerk imployed in the Kings service, by reason of his *non residence*. *Regist. orig. fol. 58. b.*

Non-suit, is a renunciation of the suit by the plaintife or demandant, when the matter is so farre proceeded in, as the Iurie is ready at the Barre, to deliver their verdict, *anno 2. H. 4. ca. 7.* See the new booke of Entries, *verbo Non-suit*. The Civilians terme it *Litis renunciationem*.

Non solvendo pecuniam ad quam Clericus mulctatur pro non residentia, is a writ prohibiting an Ordinarie to take a pecuniarie mulct, imposed upon a Clerke of the

King for *Non-residence*, *Reg. orig. fol. 59.*

Non-tenure, is an exception to a count, by saying that hee holdeth not the land specified in the count, or at the least, some part of it, *anno 25. Edw. 3. statut. 4. cap. 16. West. parte 2. Symbol. titulo Fines. Sect. 138.* maketh mention of *Non-tenure* generall, and *Non-tenure* speciall. See the new booke of Entries, *verbo Non-tenure*, where it is said, that especiall *Non-tenure* is an exception, alledging that hee was not tenant the day whereon the writ was purchased. *Non-tenure* generall is then by likelyhood, where one denieth himselfe ever to have beene tenant to the land in question.

Non sum informatus. See *Informatus non sum*.

Non sane memorie (*Non sana memorie*) is an exception taken to any act declared by the Plaintiffe or Demandant to be done by another, whereupon he groundeth his plaint or demand. And the contents of this exception be, that the partie that did that act (being himselfe or any other) was not well in his wits, or mad when he did it. See the new booke of Entries, *titulo Non sane memorie*, and *Dum non fuit compos mentis*. See also, *supra Non compos mentis*.

Non terme (*non terminus*) is the time

time of vacation between Terme and Terme. It was wont to be called the times or dayes of the Kings peace, Lamb. *Archano.* fol. 126. and what these were in the time of King Edward the Confessour, see there. This time was called (*Iustificium*) or (*Feria*) among the *Romans*, or (*dies nefasti*) *Festas appellari notum est tempus illud, quod forensibus negotiis & jure dicendo vacabat. Earum autem alie solemnes erant, alie repentinae.* Brisson. *de verb. signif.* lib. 6. vide *Wesembec: paratis. De Feriis. num. 6.*

Note of a fine, (nota finis) is a briefe of a fine made by the Chirographer, before it be ingrossed. The forme whereof see in *West. parte 2. Symbol. titulo Fines. Sect. 117.*

Novell assignement (nova assignatio) is an assignement of time or place, or such like, otherwise then as before it was assigned. In *Brooke* you may find these words in effect: *titulo, Deputie. num. 12.* See *novell assignement of Trespass* in a new place after *Barre* pleaded. *Broke, titulo Trespass. 122.* and, *novell assignement* in a writ *de ejectione custodie. titulo Ejectione custodie. num. 7.* See *Assignement.*

Nude mater. See *Mater.*

Nunne (Nonna) is the French word (*nonnain*) or *nonne* something altered, which signifieth a

holy, or consecrated Virgin, or a woman that hath by vow bound her selfe to a single and chaste life, in some place and companie of other women, separated from the world, and addicted to an especiall service of God, by Prayer, Fasting and such like holy exercises. If wee would know whence this word came into France, *Saint Hierame* maketh it an Egyptian word, as *Hospinian* recordeth of him, in his Booke *De origine & progressu monachatus.* fol. 3.

Nuper obiit, is a writ that lieth for a co-heire being deforced by her co-heire of lands or tenements, whereof the Grand-father, Father, Uncle, or Brother to them both, or any other their common Ancesters, died seised of an estate in Fee simple. See the forme of the writ, *origin. Registi. fol. 226. & Fitzb. nat. br. fol. 197.* If the Ancestor died seised in Fee taile, then the co-heire deforced shall have a *Formdon.* *Idem. ibid.*

Nusance (nocumentum) cometh of the French (*nuire. i. nocere.*) It signifieth in our common Law, not onely a thing done, whereby another man is annoyed in his free lands or tenements, but especially the Assise or writ lying for the same. *Fitzb. nat. br. fol. 183.* And this writ (*de Nocumento*) or of *Nu-*

sance, is either simply, *De nocumento*, or *de partu nocumento*; and then it is *Viciniat. Obl. nat. h. fo. 198. & 199. & Flizh. natur. br. ubi supra; & fol. 184. Brittonical- leth it Nofance, whom, also reade cap. 61, & 62. M. Adammoil parte 2. of his Forest Lawes, cap. 17. maketh three sorts of Nofance in the Forest, the first is *Nocumentum commune*, the second, *Nocumentum speciale*, the third, *Nocumentum generale*; which reade with the rest of that whole chapter. See the Register orig. fol. 197. & 199.*

Nutmeg, (*uxa myristica, vel nuc. muscata*) is as a spice well knowne to all. It groweth of a tree like a Peach tree, and is inclosed in two huskes, whereof the inner huske is that spice which we call Mace. Of this who will, may reade more in *Gerards herball, lib. 3. ca. 145*. It is mentioned among spices that are to be garbled, *anno 1. Jaco. cap. 19.*

O

Obedientia, was a rent, as appeareth by Roger Hoveden *parte poster: suorum annalium, fol. 430.* in these words: *ut ego eis, se regularibus, adimatur oportunitas evagandi, prohibemus, ne redditus quos obedientias vocant, ad firmam teneant, &c.* Obedientia in the canon law is used for an office or

the administration of an office, *ca. cum ad monasterium. & extra de statu monacho. & cano. regularis*. And thereupon the word (*obedientiales*) is used in the provinciall constitutions for those which have the execution of any office under their Superiors. *cap. prim. de statu, regula*. For this Saith Lyndwood in his gloss upon that word: *Hii sunt qui sub obedientia suorum prelatorum sunt, & habent circa officia administranda interius vel exterius*. It may be that some of these offices called obedientia consisted in the collectiō of rents or pensions: and that therefore those rents were by a metonymie called obedientia, *quia colligebantur ab obedientialibus*.

Oblations (*oblaciones*) are thus defined in the canon law. *Oblaciones dicuntur, quicunque a pios fidelibusque Christianis offeruntur Deo & ecclesie, sive res solis sive mobiles sunt. Nec refert an legentur testamento, an aliter donentur, cap. clerici. 13. quest. 2.* Reade more of these in *Duarenus. De ster. eccl. minister. ac benefi. cap. tertio*.

Obligation (*obligatio*) and Bill be all one, saving that when it is in English, it is commonly called a Bill, and when it is in Latine, an Obligation. *West. parte 1. Symbol. lib. 2. sect. 146.* True it is that a Bill is obligatorie: but wee commonly call that an

Obligation, which hath a condition annexed. The former Author in the same place saith thus farther. An Obligation is a deed, whereby the obligour doth knowledg himselfe to owe unto the obligee, a certaine summe of money, or other thing. In which, besides the parties names, are to bee considered the thing due, and the time, place, and manner of payment, or deliverie. Obligations bee either by matter in deed, or of record. An Obligation by matter in deed, is every obligation not acknowledged and made in some Court of Record. Hitherto *Master West.*

Occupavit, is a writ that lieth for him, which is ejected out of his land or tenement in time of war; as a writ of *Novel disseisin* lieth for one ejected in time of peate. *Ingham §. Brief de novel disseisin.*

Offo tales. See *Tales*. See *Brooke tit. Offo tales.*

Odio & atia, anno 3. *Ed. 1. cap. 11.* is a writ sent to the under-Sheriffe, to inquire whether a man being committed to prison upon suspicion of murther, be committed upon malice or evill will, or upon just suspicion, *Regist. orig. fol. 133. b.* See *Bracton, li. 3. parte 2. cap. 20.*

Office (*Officium*) doth signifie not only that function, by vertue

wherof, a man hath some employment in the affaires of another, as of the King, or other common person; but alio an Inquisition made to the Kings use, of any thing by vertue of his office who inquireth. And therefore we oftentimes read of an office found, which is nothing but such a thing found by Inquisition made *ex officio*. In this signification it is used *anno 33. H. 8. cap. 20.* and in *Stamfords prerog. fol. 60. & 61.* whereto traverse an office, is to traverse the Inquisition taken of office. And in *Kitchin, fo. 177.* to returne an office, is to returne that which is found by vertue of the office; see also the new booke of Entries, *verbo Office purl le Roy*. And this is by a metonymie of the effect: And there bee two sorts of offices in this signification, issuing out of the Exchequer by Commission, *viz.* an office to intitule the King in the thing inquired of, and an office of instruction; which reade in *Sir Edward Cokes reports, vol. 6. Pages case. fol. 52. a. b.* Office in fee, is that which a man hath to himselfe and his heires, *anno 13. Edw. 1. cap. 25. Kitchin, fol. 152.* See *Clerk.*

Official (*Officialis*) is a word verie diversly used. For by sundry Civilians of other countries, that write in these dayes, it appeareth to be applied in many

places, to such as have the sway of temporall Justice. *Aegidius Bossius in pract. crim. tit. De officialibus corruptis, &c.* But by the ancienter civill Law, it signifieth him that is the Minister or Apparitor of a Magistrate or Judge. *l. 1. §. si quis ultro. x. de questio. & Co. de filiis officialium, &c. lib. 12.* In the Canon law, it is especially taken for him, to whom any Bishop doth generally commit the charge of his spirituall Jurisdiction. And in this sense one in every Dioces is (*officialis principalis*) whom the Statutes and Lawes of this Kingdome call Chanceler, *an. 32. H. 8. cap. 15.* The rest, if there bee more, are by the canon law called *officiales foranei. glos. inclem. 2. de Rescriptis*, but with us termed Commissaries (*Commissarii*) as in the statute of H. 8. or sometimes (*Commissarii foranei.*) The difference of these two powers you may reade in *Lyndwood, titulo de sequestra posses. ca. 1. verbo. Officialis.* But this word (*officialis*) in our statutes and common law, signifieth him, whom the Archdeacon substituteth in the executing of his Jurisdiction, as appeareth by the statute above-mentioned, and many other places.

Officiarius non faciendis. vel amovendis, is a writ directed to the Magistrates of a corporation,

willing them not to make such a man an officer, and to put him out of the office he hath, untill enquire be made of his manners, according to an inquisition formerly ordained. *Register originall, fol. 126. b.*

Onerando pro rata portionis, is a writ that lieth for a joynt tenant, or tenant in common, that is distrained for more rent, then the proportion of his land cometh unto. *Reg. orig. fol. 182. a.*

Open Law, (*Lex manifesta, Lex apparens*) is making of Law, which by *Magna charta, cap. 28.* Bayliffes may not put men unto upon their owne bare assertions, except they have witnesses to prove their imputation.

Orebel anno 1. R. 3. cap. 8. Oreball, anno 24. H. 8. c. 2. & anno 3. & 4. Ed. 6. cap. 2. seemeth to be all one with corke.

Ordinance of the Forest (Ordnatio Forestae) is a statute made touching Forest causes in the 34. yeare of Edward 1. See *Affise*.

Ordinarie (Ordinarium) though in the civill Law, whence the word is taken, it doth signifie any Judge that hath authoritie to take knowledge of causes in his owne right, as he is a Magistrate, and not by deputation: yet in our common law, it is most commonly, and for ought I remember, alway taken for him, that

that hath ordinary jurisdiction in causes Ecclesiasticall. See *Brooke hoc titulo*. *Lindwood in cap. exterior, titulo de Constitutionibus. verbo Ordinarii*, saith *quod Ordinarius habet locum principaliter in Episcopo, & aliis superioribus, qui soli sunt universales in suis jurisdictionibus, sed sunt sub eo alii ordinarii, hii viz. quibus competit jurisdictione ordinaria de jure, privilegio, vel consuetudine, &c. v.c.*

Ordinatione contra servientes, is a writ that lyeth against a servant for leaving his Master against the Statute, *Register original, fol. 189.*

Ordel (Ordalium) is a Saxon word, signifying as much as Judgment, in some mens opinions compounded of two Saxon words (*or*) a privatize as (*a*) in Greeke, and (*deli. pars*) It signifieth as much as *expers*: but it is artificially used for a kinde of purgation practised in auncient times: whereby the party purged, was judged *expers criminis*, called in the canon Law *purgatio vulgaris*, and utterly condemned. There were of this two sorts, one by fire, another by water. Of these see *M. Lambard in his explication of Saxon words. verbo Ordalium*, where he expresseth it at large, with such superstitions as were used in it. Of this you may likewise reade *Holinshed in his description of Bri-*

taine, fol. 98. and also M. Manwood, parte pri. of his Furst lawes, pag. 15. But of all the rest, *Hottam* especially, *disput. de feud. cap. 41.* where of five kind of proofs, which he calleth *feudales probationes*, he maketh this the fourth, calling it *exploratio-nem*, & *huius feriose probationis 6. genera fuisse animadvertit*, per *flumnam*, per *aquam*, per *ferrum candens*, per *aquam vel gelidam*, vel *feruentem*, per *sortes*, & per *corpus Domini*, of all which he alledgeth severall examples out of History, very worthy the reading. See *M. Skene also de verbor. significatione, verbo (Machaminus)* This seemeth to have been in use here with us in *Henry the seconds daies*, as appeareth by *Glanville, lib. 14. c. 1. & 2.* Read also of this in *M. Verstegans Restitution of decayed intelligence, cap. 3. pag. 63 & seqq.*

Orfgild, alias *Cheapegild*, is a restitution made by the Hundred or Councie, of any wrong done by one that was in *plegio*. *Lamberd. Archaion. page 125. & 126.*

Orgeis, anno 31. Ed. 3. Stat. 3. cap. 2. is the greatest sort of North sea-fish, now a dayes called *Organ ling*.

Oredelfe, is a liberty whereby a man claymeth the Ore found in his soyle. New exposition of Termes.

Ortelli, is a word used in the booke termed (*popills oculi*) in the chapter containing the Charter of the Forest, *part 5. cap. 22.* and signifieth the clawes of a dogs foot, being taken from the french, *ortils des pieds. i. digiti pedum*, the Toes.

Osmonds, *anno 32. Henr. 8. cap. 14.*

Oib of the King (*Juramentum Regis*) is that which the King taketh at his Coronation, which in *Bracton* is set downe in these words: *Debet Rex in coronatione sua, in nomine Jesu Christi prestito sacramento hec tria promittere populo sibi subdito: Inprimis se esse precepturum & pro viribus opem impensurum ut ecclesie dei & omni populo Christiano vera pax omni suo tempore observetur. Secundo, ut rapacitates & omnes iniquitates omnibus gradibus interdicat. Tertio, ut in omnibus judiciis equitatem precipiat & misericordiam, ut indulgeat ei suam misericordiam clemens & misericors Deus, & ut per justitiam suam firmus gaudeant pace universi.* And in the old abridgement of Statutes set out in *King Henry the eightes* dayes, I find it thus described. This is the oath that the King shall sweare at his Coronation: That hee shall keepe and maintaine the right, and the liberties of the Holy Church, of old time granted by the righteous Chri-

stian Kings of England, and that hee shall keepe all the Lands, Honours, and Dignities righteous and free of the Crowne of England in all manner whole, without any manner of minishment, and the rights of the Crowne hurt, decayed, or lost, to his power shall call againe into the ancient estate; and that hee shall keepe the peace of the Holy Church, and of the Clergie, and of the people with good accord: and that hee shall doe in all his judgements equitie, and right justice, with discretion and mercie: and that he shall grant to hold the lawes and customes of the Realme, and to his power keepe them, and as firme them, which the folke and people have made and chosen: and the evill Lawes and customes wholly to put out: and stedfast and stable peace to the people of this Realme, keep, and cause to be kept to his power: and that he shall grant no Charter, but where he may doe it by his oath. All this I find in the foresaid Booke, *titulo Sacramentum Regis. and Charter of Pardon. quinto.*

Oib of the Kings Justices is, That they well and truly shall serve the King, and that they shall not assent to things, that may turne to his dammage or disinheri-
 tance. Nor that they shall take

no fee nor livery of none but the King. Nor that they shall take gift nor reward of none that hath adoe before them, except it be meate and drinke of small value, as long as the plee is hanging before them, nor after for the cause. Nor that they shall give counsell to none in matter that may touch the King, upon paine to bee at the Kings will, body and goods. And that they shall doe right to every person, notwithstanding the Kings letters, &c. *anno 18. Ed. 3. statut. 4.* which the old abridgement maketh to be *anno 20. ejusdem statuto per se.*

Oibo, was a *Deacon* *Cardinall* of *S. Nicens in carcere Tulliani*, and *Legate* for the Pope here in England, *anno 22. H. 3.* whose constitutions wee have at this day: *Storres An. p. 303.* and see the first constitution of the said Legat.

Oibobonus was a *Deacon* *Cardinall* of *S. Adrinu*, and the *Pipes Legate* here in England, *anno 15. Hen. 3.* as appeareth by the award made betweene the said King and his Commons, at *Kenelworth*; his constitutions we have at this day in use.

Ouch, *anno 24. H. 8. cap. 13.*

Ouster le main (*Amovere manum*) word for word, signifieth to take off the hand; though in true French, it should be (*Oster la main*) It signifieth in the common

Law, a Judgement given for him that rendeth a travers, or sheweth a *Monstrance de droit*, or petition. For when it appeareth upon the matter discussed, that the King hath no right nor title to the thing he seised, then judgement shall be given in the Chancery, that the Kings hands be amoved, and thereupon *Amoveas manum* shall be awarded to the Escheator: which is as much, as if the judgement were given, that hee should have againe his land. *v. Stawn. p. r. g. ca. 24.* See *anno 28. Ed. 1. stat. 3. ca. 19.* It is also taken for the writ gramed upon this petition: *Fitzh. nat. br. fol. 256. C.* It is written *oter le maine*, *anno 25. Hen. 8. ca. 22.*

Ouster le mer (*ultra mare*) cometh of the French (*oultre. i. ultra*) and (*le mer. i. mare*) and it is a cause of excuse or Essoine, if a man appeare not in Court upon Summons: See *Essoin*.

Outfang: bief, alias *utfang: bief*, is thus defined by *Bracton*, lib. 3. tra. 2. ca. 34. *Utsfangibief dicitur latro extraneus veniens aliunde de terra aliena, & qui captus fuit in terra ipsius, qui tales habet libertates*, but see *Britton* otherwise, fol. 91. b. It is compounded of three Saxon words (*out. i. extra*) (*sang. i. capio vel captus*) and (*Tbes. i. fur.*) It is used in the common law, for a libertie or privi-

priviledge, whereby a Lord is inabled to call any man dwelling within his owne fee, and taken for felonie in any other place, and to judge him in his owne Court. *Rastals Expos. of words.*

Oculy of services, is an equality when the Tenent paravaile oweth as much to the mesn, as the mesn doth to the Lord paramount. *Fitzh. nat. br. folio. 136. A. B.*

Outlawry (utlagaria) is the losse or deprivation of the benefit belonging to a subject: that is, of the Kings protection and the Realme. *Bracton, lib. 3. tract. 2. cap. 11. num. pri. & nu. 3.* Forissacit *utlagatus omnia quae pacis sunt: Quia à tempore quo utlagatus est, caput gerit lupinum, ita quòd ab omnibus interfici possit, & impune: maxime si se defenderit, vel fugerit, ita quòd difficilis sit ejus captio, & nu. 4.* Si autem non fugerit, nec se defenderit cum captus fuerit: extunc erit in manu domini Regis mors, & vita, & qui taliter captum interfecerit, respondebit pro eo sicut pro alio, v. c.

Outporters anno 9. H. 5. cap. 8. seemeth to be a kind of theeves in *Ridesdall*, that ride abroad at their best advantage, to fetch in such cattell or other things, as they could light on without that liberty: some are of opinion, that those which in the fore-na-

med Statute are termed out-parties, are at this day called out-putters, and are such as set matches for the robbing of any man or house: as by discovering which way hee rideth or goeth, or where the house is weakest and fittest to be entred. See *Intakers.*

Outryders, seeme to be none other but Bayliffes errants, employed by the Sheriffes or their fermers, to ride to the farthest places of their counties or hundreds, with the more speed to summon to their countie or hundred courts, such as they thought good to worke upon, anno 14. Edw. 3. stat. 1. ca. 9.

Oxgang of land (Bovata terre) Six oxgangs of land, seeme to be so much as six oxen will plough. *Crompton. Jurisd. fol. 220.* but an oxegang seemeth properly to be spoken of such land as lieth in gaignour, *old. nat. br. fol. 117. M. Skene de verb. signif. verbo Bovata terre* saith, that an oxen-gate of land should alway containe 13. acres, and that 4. oxen-gates extendeth to a pound land of old extent. See *Librata terre.*

Oyer and Terminer, (audiendo & terminando) in true French (*Ovir & terminer*) is, in the intendment of our Law, a Commission especially graunted to certaine men, for the hearing and determining of one or more causes,

causes. This was wont to bee in use upon some sodaine outrage or insurrection in any place. *Cromptons Jurisd. fol. 131. & 132.* See *The Statute of Westm. 2. cap. 29. anno 13. Edw. 1.* who might grant this commission. And see *Fitzherb. nat. br. fol. 100.* for the forme and occasion of the writ, as also to whom it is to be graunted, and whom not. See *Brooke, titulo, Oyer & determiner.*

Oyer de Record (Audire Recordum) is a petition made in Court, that the Judges for better proofes sake, will be pleased to heare or looke upon any Record.

P

Packing whites. anno, 1. R. 3. cap. 8.

Pain fort & dure (pœna fortis & dura) is in true french (*peine fort & dure.*) It signifieth in our common Lawe, an especial punishment for those, that being arraigned of felony, refuse to put themselves upon the ordinary tryall of God and the Countrey, and thereby are mute, or as mute in interpretation of law. This (as *Stawus. thinketh, pl. cor. lib. 2. cap. 60.*) is founded upon the Statute of *Westm. prim. cap. 12. anno. 3. Ed. prim.* His reason is, because *Bracton*, who writ before that Parliament, maketh

no mention of it: and *Britton* writeth after that time, touching it in his 4. chapter, *fol. 11. viz.* in words to this effect: If they will not acquite themselves, let them bee put to their penance untill such time as they do desire tryall: and let the penance bee such: *viz.* Let them bee bare legged, without girdle, and without hatte or cappe, in their coate onely, and lie in prison upon the naked earth day and night. And let them eate no bread, but of barley and branne, nor drinke any other then water, and that upon that day when they eate not. And let them bee chained. *Stawusford* in his said 60. chapter of his second book, expoundeth it more plainly and particularly in this sort. And note, that this strong and hard paine shall be such: *sc.* He shall be sent back to the prison whence he came, and layed in some lowe darke house, where he shall lie naked upon the earth without any litter, rushes, or other cloathing, and without any rayment about him, but only something to cover his privie members. And hee shall lie upon his backe with his head covered and his feete. And one arme shall bee drawne to one quarter of the house with a cord, and the other arme to another quarter: and in the same manner let it be

done with his legges : and let there be layed upon his body iron and stone, so much as he may beare, or more : and the next day following, hee shall have three morfells of barley bread without drinke : and the second day, he shall have drinke three times : and as much at each time, as hee can drinke, of the water next unto the prison doore, except it be running water, without any bread. And this shall be his dyet untill he die.

Palatine. See *County Palatin.* See *Cassan. de consuetud. Burg. pag. 14.*

Palingman, anno 11. Henr. 7. cap. 22.

Pannel (*panellum*) commeth of the French (*panne. i. pellis, or paneau*) a peece or pane, as wee call it in English. It signifieth in our common law, a shedule or rolle, containing the names of such Jurors, as the Shyreewe provideth to passe upon any triall. *Register orig. fol. 223. a. Kitchin, fol. 266.* See *Broke, hoc titulo.* And thereupon the empanelling of a Jury, is nothing but the entring of them into the Shyreewes rolle or book.

Pannage (*pannagium*) is a tolle or contribution. *Fitz. nat. br. fol. 227. D.* See *Pawnage.*

Paramounte, aliàs *peremounte* : commeth of these two French words (*par. i. per.* and (*Monter*

i. ascendere) It signifieth in our law, the highest Lord of the fee : for there may bee a Tenant to a Lord, that hou'deth over of another Lord. And the former of those is called, Lord *Mesn*, the second Lord paramount. And a Lord paramount (as it seemeth by *Kitchin, fol. 289.*) consisteth only in comparison; as one man may be great being compared with a lesser, and little being compared with a greater : and as *Genus*, among the *Logicians*, may be in divers respects both *genus*, & *species.* *Fitzh. nat. br. fol. 135. M.* So that none seemeth simply to be Lord paramount, but onely the King, as *Genus summum* is simply *Genus.* For the King is patron paramount to all the benefices in England, Doctor and student : *ca. 36.* See *Paravaile, Manner. and Fee.*

Paravaile, aliàs *Peravaile*, is compounded of two French words (*par. i. per.*) and (*avaller. i. dimittere, demittere*) It signifieth in our common law, the lowest tenant, or him that is tenant to one, who holdeth his fee over of another. So is it used, *pl. cor. fol. 197. & Fitzh. nat. br. fol. 135. M.* See *Paramounte.* See *Mesn.*

Parcell makers, are two officers in the eschequer, that make the parcels of the escheators accountments, wherein they charge them

them with every thing they have leuyed for the Kings use, within the time of their office, and deliver the same to one of the auditors of the court, to make an accompt of the elcheator thereof.

Parceners. See *Coparceners.*

Parcinarie (*participatio*) com-meth of the French (*partir. i. dividuum facere.*) It signifieth in our common law, a houlding or occupying of land by more *pro indiviso*, or by joint tenants, otherwise called *Coparceners*, of the French (*parsonier. i. partiarus, particeps.*) For if they refuse to divide their common inheritance, and chuse rather to hold it joyntly, they are said to hold in *parcinarie*. *Litt. fol. 56. & 57.* This by the *Feudists* and *Lombards* is termed (*adequatio, vel paragium*) And among the ancient Romanes: *particulones, sic enim auctore Nonio, a veteribus coheredes inter se dicebantur, quod partes invicem facerent. Spigelius.*

Pardon (*pardonatio*) is a French word, signifying as much as *pax, venia, gratia.* It is used most notoriously in our common law, for the remitting or forgiving of a felonious or other offence committed against the King: This pardon is two-fold: one *ex gratia Regis*, the other, *per cours de ley*, by course of law. *Starnf. pl. cor. fol. 47.* *Pardon ex gratia Regis*, is that, which the King, in

some speciall regard of the person or other circumstance, sheweth or affordeth upon his absolute prerogative or power. *Pardon* by course of Law, is that which the law in equity affordeth, for a light offence, as homicide casual, when one killeth a man having no such meaning, *Wist. parte 2. symbol. titulo, Inditements. sect. 46.* Of this see the new booke of Entries, *verbo, Pardon.*

Pardoners, anno 22. H.8. c. 12. were certain fellows that carried about the Popes Indulgences, and sold them to such as would buy them, against whom *Luther*, by *Sleydau*s report, incensed the people of Germany in his time, exhorting them, *ne merces tam viles tanti emerent.*

Parke (*parcus*) com-meth of the French (*parquer. i. vallo, vel fossa circumdare.*) It signifieth with us, a piece of grounde inclosed and stored with wild beastes of chase. Which a man may have by prescription or the kings grant. *Cromptons Jurisd. fol. 148. M. Manswood parte pri. of his Forest lawes. pag. 148.* defineth it thus: A *parke* is a place for priviledge for wilde beastes of venery, and also for other wilde beastes, that are beastes of the Forest, and of the chase, *tam sylvestres, quam campestris.* And all those wilde beastes are to

have a firme peace and protection there. So that no man may hurt or chase them within the parke, without license of the owner of the same. Who also fol. 149. saith thus : A parke is of another nature, then either a chase or a warren is. For a parke must be inclosed, and may not lie open : for if it doe, that is a good cause of seisure of the same into the hands of the King, as a thing forfeited : as a free chace is, if it be inclosed. And moreover, the owner cannot have action against such as hunt in his parke, if it lie open. See *Forrest*. See *Chase*, See *Warren*. This word Parke, *Baldwinus* deriveth a *paradiso*, *cumque locum esse dicit, in quo varia animalia ad usum voluptatis, aut venationis includuntur & possidentur, adempta naturali libertate. Ad tit. de rerum divis. in Institutionib.*

Parco facto, is a writ which lyeth against him, that violently breaketh a Pound, and taketh out beasts thence, which, for some trespassse done upon another mans ground, or lawfully impounded. Register original fol. 166. Fitzh. nat. br. fol. 100.

Parish (*parochia*), commeth of the greeke (*παροικία*, i. *Accolarum conventus*, *accolatus*, *sacra vicinia*) it is used in the Cannon law, sometime for a Bishoprick. But in our common law it signi-

fieeth the particular charge of a secular Priest. For every Church is either Cathedrall, Coventuall, or parochiall. Cathedrall is that, where there is a Bishop seated, so called à *Cathedra* : Coventuall consisteth of Regular Clerkes, professing some order of religion, or of Deane and chapter, or other colledge of spirituall men. Parochiall is that, which is instituted for the saying of divine Service, and ministring the holy Sacraments to the people dwelling within a certaine compasse of ground neere unto it. Our Realme was first divided into Parishes by *Honorius* Archb. of *Canterbury*, in the yeare of our Lord. 636. *Cambd. Britan. pag. 104.* Of these Parish Churches, I finde there were in England in the dayes of *H. 8.* the number of 45000. *Hotoman* in his *disputations de feudis. cap. 2.* maketh mention of this word (*parochia*) out of *Pomponius Letus* in these words: *Nam sic quoq; Pomponius Letus veterem consuetudinem fuisse scribit, eamque ab Imperatore Constantino repetitam, ut Ducibus praefectis, tribunis qui pro augendo Imperio consenuerant, darentur agri, villaque, ut necessaria suppeterent, quoad viverent, quas parochias vocabant.* And a little after : *verum inter feuda & parochiam hoc interest quod haec plerumque senibus, & veteranis, plerisque emerita militia*

militie dabantur, qui cum de Rep. bene meriti essent, publico beneficio reliquum vite sustentabant: aut si quod bellum nasceretur, evocati non tam milites, quam magistri militum viderentur. Fenda vero plurimum Juvenibus robustis & primo flore atatis, qui militia munus sustinere poterant: imo vero & ut possent & ut vellent, &c.

Parlament (parlamentum) is a French word signifying originally as much as (Collocutio) or (colloquium) but by use, it is also taken for those high Courts of Justice throughout the Kingdome of France, where mens causes and differences are publicly determined without farther appeale. Whereof there be seven in number: as Paris, Tolouse, Grestuoble in Dauphine, Aix in Provence, Bourdeaux, Dijon in Bourgogne, and Roan in Normandy. Vincentius Lupanus de Magist. Franc. lib. 2. cap. Parlamentum. num. 28. whereunto Gerard de Hailon addeth the eighth. viz. Rheues in Bretagne.

In England wee use it for the assembly of the King and the 3. Estates of the Realme. viz. the Lords Spirituall, the Lords temporall, and Commons, for the debating of matters touching the Common-wealth, and especially the making and correcting of Lawes, which Assembly or Court is of all other the highest, and of

greatest authority, as you may read in *Sir Thom. Smith. de Repub. Anglo. l. c. 1. & 2. Cambd. Britan. pag. 112. and Cromptons Jurisd. fol. pri. & seqq.* The institution of this Court *Polydor Virgil, lib. 11. of his Chronicles, referreth after a sort to Henry the first: yet confessing that it was used before, though very seldome. I finde in the former Prologue of the Grand Customary of Normandy, that the Normans used the same meanes in making their Lawes. And I have seene a Monument of Antiquity, shewing the manner of houlding this Parliament in the time of King Edward the sonne of King Etheldred, which (as my note saith) was delivered by the discreeter sort of the Realme unto William the Conquerour, at his commandement, and allowed by him. This writing beinneth thus. Rex est caput, principium, & finis parlamenti, & ita non habet parem in suo gradu. Et sic ex Rege solo primus gradus est. Secundus gradus est ex Archiepiscopis, Episcopis, Abbatibus, Prioribus per Baroniam tenentibus. Tertius gradus est, de procuratoribus clerici. Quartus gradus est de Comitibus, Baronibus, & aliis Magnatibus. Quintus gradus est de militibus Comitatum. Sextus gradus est de civibus & Burgen-*

gensibus : & ita est Parliamentum ex sex gradibus, sed sciendum, licet aliquis dictorum quinque graduum post Regem absens fuerit, dum tamen omnes premoniti fuerint per rationabiles summonitiones, parliamentum nibilo minus censetur esse plenum. Touching the great authoritie of this Court, I find in *Stowes Annals*, pag. 660. that Henry the sixth directing his privie seale to Richard Earle of Warwicke, thereby to discharge him of the Captaineship of *Cales*, the Earle refused to obey the Privie Seale, and continued forth the said office, because hee received it by Parliament. But one example cannot make good a doctrine. And of these two one must needs bee true, that either the King is above the Parliament, that is, the positive lawes of his Kingdome, or else that hee is not an absolute King. *Aristotle lib. 3. Politico. cap. 16.* And therefore though it bee a mercifull policy, and also a politique mercie (not alterable without great perill) to make lawes by the consent of the whole Realme, because so no one part shall have cause to complaine of a partiality : yet simply to binde the Prince to or by these lawes, were repugnant to the nature and constitution of an absolute monarchy. See *Braetton, lib. 5.*

traff. 3. cap. 3. num. 3. and Cassi de consuet. Burg. pag. 335. and Tirraquel. in his booke De Nobilitate. cap. 20. pag. 68. num. 26. See the Statute anno 31. Henr. 8. cap. 8. in *proemio*, and many excellent men more, that handle this point. That learned *Hotoman* in his *Francogallia*, doth vehemently oppugne this ground, as some other that write in corners : but he is so cleane overborne by the pois of reason, that not onely many meaner men for Learning triumph over him in this case, but himselfe ; as I have credibly heard, upon the sight of his fault, cryed God and the world mercy for his offence, in writing that erroneous and seditious booke. The Emperors of Rome had their *semestria consilia*, and their *pretorium* or place of counsell, builded by *Augustus* in his Palace, and thereupon called (*palatium*) afterward termed (*Consistorium*) where they, as in their principall court, did both determine the greatest sort of their causes, and also made their constitutions. And heere had they assisting them many of the wisest of their Empire, whom *Augustus* first called (*consiliarios*) *Alexander Severus* afterward (*seniorum principes*) (others after that (*palatinos*) and then (*comites consistorianos*)

anos) And these men in this respect, were indued with great honour, and enjoyed many privileges. Yet were but the assistants to the Emperour to advise him, not chalenging any power over him, orequall with him. More touching the course and order of this Parliament, see in *Cromptons Jurisd. fol. pri. & seqq;* and *Vorwell, alias Hooker*, in his booke purposefully written of this matter. See *King*.

Parole (Loquela) is a French word, signifying as much as (*Dictio, allocutio, sermo, vox*) It is used in *Kitchin, fol. 193.* for a plee in court. It is also sometime joyned with lease, as *Lease parol*, that is, *Lease per parole*, a lease by word of mouth.

Parson (Parsona) commeth of the French (*Personne*) It peculiarly signifieth with us, the Rector of a Church: the reason whereof seemeth to bee, because hee for his time representeth the Church, and susteineth the person thereof, as well in siewing, as being siewed in any action touching the same. See *Flata. lib. 6. ca. 18.*

Parson impersonnee (persona impersonata) is hee that is in possession of a Church, whether appropriated or not appropriated, for in the new booke of *Entries, verbo Ayde in Annuity*, you have theise words. *Et predi-*

ctus A. dicit, quod ipso est persona predicta Ecclesie de. S. impersonas a in eadem ad presentationem E. patronisse, &c. So I have reason to thinke, that *persona* is the patron, or hee that hath right to give the Benefice, by reason that before the *Lateran Councell* hee had right to the tithes, in respect of his liberality used in the erection or endowment of the Church, *quasi sustineret personam Ecclesie*, and hee *persona impersonata*, to whom the benefice is given in the Patrons right. For I reade in the *Register Judiciall personam impersonatam*, For the Rector of a Benefice presentative, and not appropriated, *fol. 34. b.* and see *Dyer fol. 40. num. 72.* where hee saith that a Deane and chapter be persons impersonnees of a benefice appropriated unto them. who also *fol. 221. num. 19.* plainly sheweth that *persona impersonata* is hee that is induted, and in possession of a Benefice. So that *persona* seemeth to bee termed *impersonata*, onely in respect of the possession that hee hath of the benefice of Rectory, be it appropriated or otherwise by the act of another. And yet I have talked with men of good opinion in the common law, that hold onely the proprietarie of a be-

a benefice to be the person personee. But if that were true, hee should rather be called person *parsonnier*. i. *partiarus vel particeps fructuum*; because the Vicar hath some part toward his paines in serving the cure. For (*parsonnier*) in the french tongue, is (*partiarus*) or (*particeps*).

Partes finis nihil habuerunt, &c. is an exception taken against a fine levied. *Cookes reports lib. 3. the case of fines fol. 88. a. b.*

Parters of gold and silver. See *Finours*.

Partitione facienda, is a writ that lieth for those, which hold lands or tenements *pro indiviso*, and would sever to every one his part, against him or them that refuse to joyne in partition as Coparceners and Tenents in Gavelkind, *ould. nat. br. fol. 142. Fitzb. nat. br. fol. 61. Register orig. fol. 76. 316. and Register judiciall, fol. 80. and the new booke of En-trise. verbo partition.*

Part let, seemeth to be some part of a mans attire, as namely, some loose collar of a dublet, to be set on or taken off by it selfe, without the bodies, as mens bands, or womens neckerchiefs be, which are in some places, or at least have beene with-in memory, called partlets. This word is read in the Statute, *anno*

24. H. 8. ca. 13. and seemeth to bee a diminutive of the word (*part.*)

Parvo nocumento is a writ. See *Nuisance*.

Passage (*passagium*) is a french word, signifying *transitum, transi-onem, meatum*. It signifieth in our common law, the hire that a man payeth for being transported over sea, *anno 4. Edw. 3. cap. 7.* or over any river. *Westm. 2. cap. 25. anno 13. Ed. pri.*

Passagio, is a writ to the keepers of ports, to let a man passe over, that hath license of the King, *Register original fol. 193. b. 194. a.*

Passéport is compounded of two french words (*Passer*) i. *per-ambulare, transire*) and (*port*) i. *portus*) It signifieth with us, a licence made by any that hath authority, for the safe passage of any man from one place to another. *anno 2. Ed. 6. ca. 2.*

Pasnage, pasuagium. See *Pannage*.

Patent (*literæ patentis*) is different from a writ, *Cromptons Jurisd. fol. 126.* The Coroner is made by writ, and not by patent. See *Letters patents*. See also *Literæ patentis* in the table of the Register, where you shall finde the forme of divers patents.

Patron (*Patronus*) is used in the

the Civile law, for him that hath manumitted a servant, and thereby is both justly accompted his great benefactor, and challengeth certaine reverence and duty of him during his life: see the title *De jure patronatus*: in the Digest: with the Feudists it is used *pro auctore feudi*. Hotom. verbo *Patronus*, in his commentary *de verbis feudali*. In the canon law, as also in the feuds, and our common law, it signifieth him that hath the gift of a benefice. And the reason is, because the gift of Churches and benefices originally belonged unto such good men, as either builded them, or else indowed them with some great part of the revenew belonging unto them. *De jure patronatus* in the *Decretals*. Such might well be called Patrons, as builded the Church, or enriched it: but these that now have the gift of a benefice, are more commonly patronized by the Church, though against her will, alwayes selling their presentations as deerely as they can: and therefore may be called *Patroni a patrocinando*, as *Mons à movendo*. *Patronum faciunt dos, edificatio, fundus*, saith the old verse of lay patrons one writeth thus. *Quod autem a supremis pontificibus proditum est.* (*ea. cum dilectus, extra de jure patronatus*) *laicas habere presentandi clericos Ordinariis: hoc singula-*

ri favore sustinetur, ut alle-
stantur laici, invitentur, & inducan-
tur ad constructionem ecclesiarum
(c. quoniam. eodem) Nec omni ex
parte jus patronatus spirituale cen-
seri debet, sed temporale potius spiri-
tuali annexum (glos. in. c. pie-
mentii. 16. qu. 7.) These be Com-
 rasius words in his paraphrase *ad*
sacerdotiorum materiam, parte
pri. cap. 2. & parte. 4. cap. 6. in
principio, hee thus writeth of the
 same matter. *Patroni in jure*
Pontificio dicuntur qui alicuius
ecclesie extruende, aut alterius cu-
iuscunque foundationis ecclesiastice
auctores fuerunt, ideoque præ-
sentandi & offerendi clericum jus
habent, quem ecclesie vacanti
præesse, & in ea collatis redditibus
frui velint. Acquirunt autem
hoc jus, qui de Episcopi consensu
vel fundant ecclesiam, hoc est, locum
in quo templum extruitur, assignant,
vel ecclesiam edificant, vel etiam
constructas ecclesias ante consecra-
tionem dotant, ut non valde sit
obscurum, jus patronatus quo de
agimus, finire, jus esse presentan-
di clericum ad ecclesiam vacan-
tem ex gratia ei concessum,
qui consentiente Episcopo, vel
construxit, vel dotavit eccle-
siam.

Pannage (*Pannagium, alias pas-*
nagium) or (*pennagium*) as it is
 latined (*in pupilla oculi*) may be
 probably thought to come of the
 French (*panex*) or (*panets*) which

is a root something like a par-
 snep, but somewhat lesse and ran-
 ker in taste, which hogs in France
 feed upon, though it be eaten by
 men also; and the French may
 seem to come of the Latine (*pa-
 nicium*) i. that which men use
 in the stead of bread (*Isidorus*)
 or (*panicum*) of the French. It sig-
 nifieth in our common law,
 the money taken by the *Agistors*
 for the feede of hoggs with the
 mast of the Kings forest. *Crompt.
 Jurisd. fol. 165. West. 2. cap. 25.
 anno 13. Edw. pri. with whom
 M. Manwood parte pri. of his
 forrest lawes, agreeth in these
 words: Agistment is properly the
 common of herbage of any kinde
 of ground or land, or woods,
 or the money due for the
 same: and pawninge is most pro-
 perly the mast of the woods, or
 lands, or hedge rowes, or the
 money due to the owner of the
 same for it. But this learned man
 in his second part. cap. 12. where
 he writeth at large of this, deri-
 veth the word from the Greeke
πανικιον: at the which (I thinke)
 he smiled himselfe when hee set
 it downe. *Lindwood* defineth it
 thus: *Pannagium est pastus peco-
 rum in nemoribus & in sylvis, ut-
 pote de glandibus & aliis fructibus
 arborum sylvestrium, quarum
 fructus aliter non solent colligi. ti-
 tulo de decimis. cap. sancta verb.
 Pannagium. M. Skene de verbo-**

rum signif. calleth it pannagium,
 and defineth it to be the duty gi-
 ven to the King for the pasturage
 of swine in the forrest. The french
 word for his same thing is (*pa-
 nage*) or (*glandee*) i. *glandatio,*
*vel glandium collectio, & pastio
 sum ex glandibus.* And wee sure-
 ly take it from the French, whence
 they had it, or what etymologie
 they make of it, let themselves
 looke.

Peace (pax) in the generall sig-
 nification is opposite to war or
 strife. But particularly it signifi-
 eth with us, a quiet and harme-
 lesse carriage, or behaviour, to-
 ward the King and his people.
*Lamb. cirenarcha. li. 1. cap. 2. pag.
 7.* And this is one way provided
 for all men by oath, as you may
 read in *Franck pledge*, but more
 especially in case, where one parti-
 cular man, or some few goe in dan-
 ger of harm from some other. For
 upon his oath made thereof before
 a Justice of peace, he must be secu-
 red by good bond. See *Lamb. ciren-
 archa. l. 2. c. 2. p. 77.* See also
*Cromptons Justice of peace, fol.
 118. b. &c. usq; f. 129.* This a-
 mong the Civilians is called *canti-
 tio de non offendendo. Gail de pace
 publ. lib. pri. c. 2. nu. 1.*

Peace of God and the Church,
 (*pax Dei & ecclesie*) is anci-
 ently used for that rest which the
 Kings subjects had from trouble
 and suite of law, betweene the
 termes

terms, See *Vacation*.

Peace of the King. anno. 6. R. 2. *stat. pri. ca. 13.* is that peace and securitie both for life and goods, which the King promiſeth to all his ſubjects or others taken to his protection. See *Suite of the Kings peace*. This point of policy ſeemeth to have beene borrowed by us from the Feudists, for in the ſecond book of the feuds, there is a chapter viz. the 53. chapter intituled thus. *De pace tenenda inter ſubditos, & juramento firmanda, & vindicanda, & de poena judicibus oppoſita, qui eum vindicare & iuſtitiam facere neglexerint*, the contents of which chapter, is a Conſtitution of *Fredericke* the firſt, as *Hotoman* there proveth, expounding it very learnedly and like himſelfe. Of this Kings peace, *Roger Hoveden* ſetteth down divers branches, *parte poſter. ſuorum annalium* in *Hen. 2. fol. 144. a. b.* and *fol. 430. b.* he mentioneth a forme of an oath which *Hubert* Archbiſhop of *Canterburie*, and chiefe Juſtice of *England* in *R.* the firſt his daies, ſent through the whole realme, to be taken by the Kings ſubjects. See *Deciners*. See *Surety of peace*. There is alſo the peace of the Church, for which, ſee *Sanctuary*. And the peace of the Kings high way, which is the immunity that the Kings high

way hath, from all annoyance or moleſtation. See *Watlin ſtreet*. The peace of the plowe, whereby the plowe and plowe cattell are ſecured from diſtreſſes. For which, ſee *Fitz. nat. br. fol. 90. A. B.* So *Fayres* may be ſaid to have their peace, becauſe no man may in them be troubled for any debt elſewhere contracted. See *Fayre*.

Pedage (*pedagium*) ſigniſieth money given for the paſſing by foot or horſe through any countrey. *extra de Cenſibus, ca. Innovamus*. I read not this word in any Engliſh writer, but only the author of the booke called *pupilla oculi parte 9. ca. 7. A. D.* I thinke wee rather uſe paſſage for it. *Pedagia dicuntur que dantur à tranſeuntibus in locum conſtitutum à principe. Et capiens pedagium debet dare ſaluum conductum, & territorium ejus tenere ſecurum. Baldus in uſibus Feudorum. de pa. jura fir. ſect. Conventionales. Caſſan. de conſuetud. Burg. pag. 118.* hath theſe words, *Pedagium à pede dictum eſt, quod à tranſeuntibus ſolvitur, &c.*

Peere (*pila*) ſeemeth properly to bee a fortrefſe made againſt the force of the ſea, for the better ſecurity of ſhips, that lye at harbour in any haven. So is the *peere of Dover* deſcribed in *M. Camd. Brit. pag. 259. in meo*.

Peeres (*parez*) commeth of the French (*per. i. par*) it signifieth in our common law, plurally those, that are empaneled in an Enquest, upon any man for the convicting and clearing him of any offence, for the which hee is called in question. And the reason thereof is, because the course and custome of our nation is, to trie every man in this case by his equals. *West. prim. cap. 6. anno 3. Edw. prim.* So *Kitchin* useth it fol. 78. in these words : *Mais si le amerciaement soit affire per pares.* And this word in this signification, is not in use with us onely, but with other nations also. For *pares sunt convasalli, quorum sententiâ vasallus propter feloniam est condemnatus. Barklaus de Regno, lib. 4. cap. 2. Et pares sunt qui ab eodem domini feudum tenent, lib. prim. Feudor. cap. 26.* But this word is most notoriously used for those that be of the Nobility of the Realme, and Lords of the Parliament, and so it is used in *Stawns. pl.* of the Crowne, *lib. 3. cap. Triall per les Peeres*, being the first. The reason whereof is, because though there be a distinction of degrees in our Nobility, yet in all publike actions, they are equall : as in their voices in Parliament, and in passing upon the tryall of any Noble man, &c. This appellation seemeth to be borrowed from *Fraunce*,

and from those twelve Peeres, that *Charles the Great* (or *Lewis the younger*, in some mens opinion) instituted in that kingdom, which be next unto the King, and are of like dignitie among themselves touching their power in publike affaires. Of whom you may reade *Vincentius Lupanus de magistr. Francie lib. 1. cap. Pares Francie*. So that wee, though wee have borrowed the appellation, and applied it with some reason to all that are Lords of the Parliament, yet we have no set number of them, because the number of our Nobles, may be more or lesse, as it pleaseth the King.

Pelota, is a word used in the booke called (*pupilla oculi*) *parte 5. ca. 22.* signifying the ball of the foot, of the French (*pelote.*) *i. pila.*

Pein fort & dure. See *Pain fort & dure.*

Pelt wooll, is the wooll pulled off the skinne or pelt of dead sheepe, *anno 8. H. 6. cap. 22.*

Penon, *anno 11. R. 2. cap. prim.* is a Standard, Banner, or Ensigne, carried in warre. It is borrowed from *Fraunce* : for *pennon* in the French language signifieth the same thing. See *Baneret* : yea read this word, *anno 11. R. ca. 1.*

Penue : See *Baye*.

Peper (*Piper*) is a spice known in a manner to every childe, beeing the fruit of a plant, that is betweene a tree and an hearbe : of whose diversities and nature you may reade *Gerards herball*, lib. 3. cap. 146. This is set among merchandize that are to be garbled. anno 1. *Jacob*. cap. 19.

Peper lawse, anno 32. *H.* 8. cap. 14.

Per, cui, & post. See *Entrie*.

Perambulatione facienda, is a writ that is siewed out by two or more Lords of maners, lying neere one another, and consenting to have their boundes severally knowne. It is directed to the Shyrevee, commanding him to make perambulation, and to set down their certaine limits between them. Of this read more at large in *Fitz. nat. br.* fol. 133. See *Rationalibus divisio*. See the *Regist. orig.* fol. 157. and the new book of Entries, verbo, *Perambulatione facienda*.

Perche (*pertica*) is a French word, signifying a long pole. It is used with us for a rodde or Pole of sixteen foote and a halfe in length. Whereof Fourty in length, and foure in breadth make an acre of ground. *Cromptons Jurisdickt.* fol. 222. Yet by the custome of the cuntry it may be longer, as he there saith. For in the Forrest of

Sheerwood it is 25. foot, fol. 224. *M. Skene de verbor. signif. verbo*, *Particata terra*, saith, that *particata terra* is a Roode of land : where hee hath also these words in effect : Three beere cornes without taitles set together in length, make an inch : of the which cornes one should be taken of the middle ridge, another of the side of the ridge, another of the furrow. Twelve inches make a foot of measure : three foote and an inch make an elne ; sixe elnes long make one fall, which is the common lineall measure, and sixe elnes long, and sixe broad, make a square and superficial fall of measured land. And it is to be understood, that one rod, one raip, one lineall fall of measure, are all one, for each one of them containeth sixe elnes in length. Howbeit, a rod is a staffe or pole of wood, a raip is made of tow or hempe. And so much land as falleth under the rod or raip at once, is called a fall of measure, or a lineall fall : because it is the measure of the line or length only. Like as the superficial fall is the measure both of length and bredth. *Item*, ten falls in length, and foure in bredth, make a Roode ; foure Roodes make an acre, &c. This is the measure of Scotland, whereof you may read more in the same place.

Perdonatio ut lagarie, in the Register judiciale, fol. 28. is the forme of pardon for him, that for not comming to the Kings court is out-lawd, and afterward of his own accord yeeldeth himselfe to prison.

Peremptorie (*peremptorium*) cometh of the verbe (*perimere*) to cut off, and joyned with a substantive (as action or exception) signifieth a finall and determinate act without hope of renewing. So *Fitzb.* calleth a peremptory action, *nat. br. fol. 35. P. fol. 38. M. fol. 104. O. 2. R. fol. 108. D. G. and non-suite peremptorie. idem eodem, fol. 5. N. F. fol. 11.* A peremptory exception. *Bracton li. 4. cap. 20. Smith de rep. Anglorum, li. 2. cap. 13.* calleth that a peremptory exception, which can make the state and issue in a cause.

Perinde valere, is a dispensation granted to a Clerke, that being defective in his capacity to a benefice or other ecclesiastical function, is *de facto* admitted unto it. And it hath the appellation of the words which make the faculty as effectually to the party dispensed with, as if he had been actually capable of the thing, for which hee is dispensed with, at the time of his admission.

Perkins, was a learned Lawyer, fellow and benchman of the inner Temple, that lived in the daies

of *Edw. the 6.* and *Queene Mary.* He wrote a booke upon divers points of the common law of very great commendation.

Permutatione Archidiaconatus & ecclesie eidem annexæ, cum ecclesia & prebenda, is a writ to an Ordinary commanding him to admit a clerke to a benefice, upon exchange made with another: *Regist. orig. fol. 307. a.*

Pernour, of profits, cometh of the French verb (*prendre. i. accipere*) and signifieth him that taketh: as *pernour of profits, anno 1. H. 7. ca. pri. Pernour de profits, & cesti que use* is all one, *Coke. li. 1. casu Chudley. fol. 123. a.* See *Pernour, anno 21. R. 2. ca. 15.*

Per que servitia is a writ judiciall issuing from the note of a fine, and lyeth for the cognizee of a maner, seignory, chiefe rent, or other services to compell him that is tenant of the land at the time of the note of the fine levied, to attune unto him. *West. parte 2. symbol. titulo Fines. Sect. 126.* To the same effect speaketh the *old nat. br. fol. 155.* See also the new booke of Entries. *verbo per que servitia.*

Perquisite (*perquisitum*) signifieth in *Bracton*, anything purchased, as *perquisitum facere. lib. 2. cap. 30. numb. 3. & lib. 4. cap. 22.* perquisites of court, be those profits that grow unto the Lord of a maner, by vertue of his Court

Court Baron, over and above the certaine and yearely profits of his land, as escheats, mariages, goods purchased by villeines, fines of copie holds, and such like. New termes of the law.

Person. See *Parson*.

Personable, signifieth as much as inhabled to hold or maintaine plee in a court. For example: the demaundant was judged personally to maintaine this action. *old nat. br. fol. 142.* and in *Kitchin fol. 214.* The tenent pleaded that the wife was an alien borne in *Portingall* without the ligeance of the King, and judgement was asked whether shee would be answered. The plaintiffe saith: she was made personable by Parliament, that is, as the Civilians would speake it, *habere personam standi in iudicio*. Personable is also as much as to be of capacity to take any thing granted or given. *Plowden, casu Coltbirst. fol. 27. b.*

Personall (*personalis*) hath in our common law, one strange signification, being joyned with the substantive, things, goods, or Chatels: as things personall, goods personall, Chatels personall, for thus it signifieth any corporeall, and moveable thing belonging to any man, be it quicke or dead. So it is used in *Westm. par. 2. symbol. titulo Inditeiments, sect. 58.* in these words. Theft is an un-

lawfull felonious taking away of another mans moveable personall goods. And again, *fol. 61. Larceny* is a felonious taking away of another mans moveable personall goods; and *Kitchin fol. 139.* in these words: Where personal things shall be given to corporation: as a horse, a cow, an ox, sheep, hogs, or other goods, &c. and *Starnford. pl. cor. fol. 25. Contrectatio rei aliena*, is to be understood of things personall: for in things-reall it is not felony, as the cutting of a tree is not felony. The reason of this application, see *Chattell*.

Personalty (*personalitas*) is an abstract of personall. The action is in the personalty, *old. nat. br. fol. 92.* that is to say, brought against the right person, or the person against whom in law it lieth. I find these contrarie words (*Personalitas & impersonalitas*) in the authour of the booke called *vocabularius utriusq; juris*: as for example, *Personalitas significatur per has dictiones, tu, mihi, ego, tibi, cum alio significato quod probabiliter concluditur: & si nullo modo concludatur, tunc est impersonalitas, quia actum vitiat, prout ratio dicitur. verbi gratia, ego stipulor: constitutus te mihi soluturum debitum à Titio mihi debitum. Tu responderis, Satisfiet. Hec impersonalitas non contrahit obligationem.*

*Persons ne Præbendaries ne sè-
ront*

ront, charges as quinsimes, &c. is a writ that lyeth for prebendaries or other spirituall persons, being distreined by the shyreve, or collectors of fifteenths, for the fifteenth of their goods, or to be contributory to taxes. *Fitzb. nat. br. fol. 176.*

Pestorable wares, seeme to bee such wares, as pester and take up much roome in a shippe, *anno 32. H. 8. cap. 14.*

Peter pence (*Denarii Sancti Petri*) othervise called in the Saxon tongue *Romescob* .i. the fee of Rome, or due to Rome, and also *Romescot* and *Rome penning*, was a tribute given by *Inas* King of the West Saxons being in pilgrimage at Rome, in the yeere of our Lord 720. which was a peny for every house. *Lamberds* expliation of Saxon words. *verbo Numus.* whom see also *fol. 128. in St. Edw. lawes. m. 10.* where it is thus written. *Omnes qui habent. 30. denariatus vroe pecunie in domo sua de suo proprio, Anglorum lege dabit denarium Sancti Petri & lege Danorum, dimidium markam: Iste vero, denarius debet summoniri in solemnitate Apostolorum Petri & Pauli, & colligi ad festivitatem, que dicitur ad vincula: ita ut ultra illum diem non d timeatur. Si quispiam detinuerit, ad Justiciam Regis clamor deferatur. quoniam denarius hic Regis elemozyna est,*

*Justicia vero faciat denarium redde-
dere, & forisfacturam Episcopi &
Regis. Quod si quis domos plures habuerit, de illa, ubi residens fuerit in festo Apostolorum Petri & Pauli denarium reddat.* See also *King Edgars lawes, fol. 78. cap. 4.* which containeth a sharpe constitution touching this matter. *Stow. in his Annals, pag. 67.* saith, that he that had 20. peniworth of goods of one manner cattell in his house, of his owne proper, was to give a penny at Lammas yearly. See *Romescot.*

Petit Cape. See *Cape.*

Petit Larceny (*parvum latrocinium*) See *Larcenye.*

Petit treason (*parva traditio*) in true French is (*petit trahizon. i. proditio minor*) treason in a lesser or lower kinde. For whereas treason in the highest kinde, is an offence done against the security of the common wealth, *West. parte. 2. symb. titulo Inditement, sect. 63.* *petit treason* is of this nature, though not so expressly as the other. Examples of *petit treason* you shall find to be these: if a servant kill his master, a wife her husband, a secular or religious man his prelate, *anno 25. Edw. 3. cap. 2.* Whereof see more in *Stawm. pl. cor. lib. 1. cap. 2.* See also *Cromptons Justice of peace, fol. 2.* where hee addeth divers other examples to those of *Stawmford.* For the punishment

nishment of petit treason, see the statute, *an. 22. H.8. cap. 14.* and *Crompton ubi supra.*

Petition (*petito*) hath a general signification for all intreaties made by an inferiour to a superiour, and especially to one having jurisdiction: But most especially it is used for that remedie, which the subject hath to helpe a wrong done, or pretended to be done by the King. For the King hath it by prerogative, that he may not be shiewed upon a writ. *Stawm. prer. cap. 15.* whom also reade *cap. 22.* And a petition in this case is either generall, or speciall. It is called generall, of the generall conclusion set down in the same, *viz. que le Roy lui face droit & raison*, that the King doe him right and reason: whereupon followeth a generall indorsement upon the same. *soit droit fait aux partis*, let right be done to the parties. *Petition* speciall is, where the conclusion is speciall for this or that: and the Indorsement to this is likewise speciall. See the rest *cap. 22.*

Petra lane, a stone of wooll. See *Stone.*

Philiser, See *Filazer.*

Picage (*piccagium*) is money paid in faires for breaking of the ground to set up bootches or standings.

Picle, *alias pitle*, seemeth to come from the Italian (*piccolo vel picciolo. i. parvum, minutus*) and signifieth with us a little small close, or inclosure.

Pienour, commeth of the French (*Pionnier. i. fossor*) and signifieth such labourers, as are taken up for the Kings host, to cast trenches, or undermine forts. *anno 2. & 3. Ed. 6. cap. 20.*

Piepowders court (*Curia pedis pulverizati*) comes of two French words (*ped. i. pes*) & *pouldreux. i. pulverulentus*) It signifieth a court held in faires for the redresse of all disorders committed within them: which because it is summary, *de plano, & sine figura judicij*, it hath the name of dustie feet, which we commonly get by sitting neere the ground: of this see *Cromptons Jurisd. fol. 221.* Read *M. Skene. de ver. signif. verbo Pedepulverisum*: which word hee reporteth to signifie a vagabond, especially a merchant, which hath no place of dwelling, where the dust may bee wiped off his feet or shooes, and therefore must have justice summarily ministred unto him, *viz. within three flowings and three ebbings of the sea.* *Bract. calleth it Justitiam pepoudrou, li. 5. tract. 1. c. 6. nu. 6.* Of this court reade the statute *anno 17. Edw. 4. ca. 2.*

Pille of Foddray, in the countie of Lancaster, *anno 2. H. 6. ca. 5.*

seemeth to bee a creeke, and called pille by the ideom of the countrey for pile; for the which see *Pile*.

Pillorie (*Collistrigium, Pillorium*) commeth of the French (*Pillorie*) which may seem to smell of the greek; and to proceed from (*πύλη*) because one standing on the pillory, putteth his head through a kind of doore, i. *jama*: & *ὁ δεικνυμενος* i. *video*: it signifieth all one thing with it, saving that the French is used for a tumbrell, as well as for that which wee call the pillorie. there is a statute made of the pillory, anno 51 H. 3. wherein you may see who were then subject to this punishment. This was among the Saxons called *Healsfang*, of (*Heals*) a necke; and (*Fang*) to take, *Lamb. explanation of Saxon words. verbo Multa*.

Pipe (*pipa*) seemeth to bee a rolle in the exchequer, otherwise called the great roll, anno 37. Ed. 3. cap. 4. See *Clerke of the pipe*. It is also a measure of wine or oyle, containing halfe a tunne, that is fixe score & fixe gallons, anno 1. R. 3. cap. 13.

Piscarie (*piscaria*), commeth of the french (*pescharie*. i. *piscatio*) it signifieth in our common law, a libertie of fishing in an other mans waters.

Pittle. See *Picle*.

Plavard, anno 2. & 3. Ph. & Mar. cap. 7. is a licence whereby a man is permitted to maintain unlawful games.

Plaint (*Querela*) is a french word, signifying as much as *questus, querimonia*. In our common law, it is used for the propounding of any action personall, or reall in writing. So it is used in *Brook, titulo. Plaint in Affise*; and the party making this plaint, is called plaintife: *Kitchin, fol. 231*.

Plea (*placitum*) commeth of the French (*ploid*. i. *lis, controversia*). It signifieth in our common law, that which either party alleadgeth for himselfe in court. And this was wont to bee done in French from the Conquest, untill *Edward the 3.* who ordained them to be done in English. a. 36. cap. 15. Pleas are divided into pleas of the Crowne, and common pleas. Pleas of the Crowne in Scotland be 4. robberie, rape, murder, and wilfull fire, *Skene de verb. sign. verb. Placitum*. with us they bee all suites in the Kings name, against offences committed against his Crowne and dignity. *Stamf. pl. cor. cap. 1.* or against his Crowne and peace. *Smith de Repub. Angli. li. 2. cap. 9.* And those seem to be treasons, felonies, misprisions of either, and mayhem. For those onely doth that reverend Judge

Judge mention in that tractat. Common pleas bee those that bee held between common persons. Yet by the former definitions, these must comprise all other, though the King bee a partie. Plea may farther bee divided into as many branches as Action, which see. For they signifie all one. Then is there a Forein plea, whereby matter is alledged in any Court that must be tryed in another. As if one should lay Bastardy to another, in a court Baron. *Kitchin. fol. 75.* The word (*placitum*) is used by the Commentoures upon the Feuds in the same signification that pleas bee with us. And (*Plactarie*) with them is (*litigare, & causas agere.* *Hotom. in verb. feud. verb. Placitare.*

Pledge (*Plegius*) cometh of the French (*Plège. i. fidejussor*) *Pleiger aucun. i. fidejubere pro aliquo.* In the same signification is *Plegius* used by *Glanville. Libro decimo, capite quinto,* and *Plegiatio* for the act of suretiship in the interpreter of the Grand Customary of Normandy, *capite 60. Plegii dicuntur persone quæ se obligant ad hoc, ad quod qui eos mittit tenebatur.* And in the same booke, *capit. 85. & 90. Plegiatio* is used as *Glanville*

before doth use it. *Salvi plegii*, hee used for *Plegii, pupil. oculi, parte quint. capit. 22. Charta de Foresta.* This word *Plegius* is used also for Franke pledge sometime, as in the end of *William the Conquerours Lawes* set out by Master *Lambard in his Archaionum. fol. 125.* in these words. *Omnis homo qui voluerit se tenere pro libro, sit in plegio, ut plegius cum habeat ad Justiciam, si quid offenderit, &c.* And these bee called capitall pledges. *Kitchin. folio decimo.* See *Franke pledge.*

Plena forisfactura, and *plena vita*, see *Forfeiture.*

Plegius acquietandis is a writ that lyeth for a surety against him, for whom hee is surety, if he pay not the money at the day. *Fitzherb. nat. br. fol. 137. Regist. originall. 158. a.*

Plenarie, is an abstract of the adjective (*plenus*) and is used by our common Lawyers in matters of benefices. Wherein *plenary* and *vacation* bee meerely contrary. *Stawusford. prerogativ. cap. octavo. fol. 32. Westm. secundo, capit. quint. anno 13. Edward. prim.*

Plevin (*plevina*) cometh of the French (*plevine i. sponsi.*

See *Replevin*.

Plite of Lawne, &c. *an. 3. Edw. 4. ca. 5.* seemeth to be a certaine measure, as a yard, or elle, &c.

Plonkets anno 1. R. 3. cap. 8. is a kinde of wollen cloth.

Pluries, is a writ that goeth out in the third place. For first goeth out the originall *Capias*: which if it speed not, then goeth out the *Sicut alias*: and if that faile, then the *Pluries*. See *old nat. br. fol. 33.* In the writ *De excom. capiendo*, see in what diversitie of cases this is used in the Table of the *original Register*.

Pole. See *Perch*.

Polein, *anno 4. Ed. 4. cap. 7.* seemeth to be a sharpe or picked toppe set in the fore-part of the shooc or boote. This fashion was first taken up in *Richard* the seconds dayes, the pickes being made so long as they were tyed up to the knees with silver or golden chaines, and forbidden by *Edw.* the fourth.

Stow. pag. 4.

Policy of assurance, is a course taken by those which do adventure wares or merchandize by sea, whereby they, loath to hazard their whole adventure, doe give unto some other a certaine rate or proportion, as tenne in the hundred, or such like, to secure the safe arrivall of the ship, and so much wares at the place

agreed upon. So that if the ship and wares do miscary, the assurer maketh good to the venturer so much as hee promised to secure, as 20. 30. 100. more or lesse: and if the ship doe safely arive, hee gaineth that clearely which the venturer compoundeth to pay him. And for the more even dealing between the venturer and the securer in this case, there is a certaine Clerk or officer ordained to set downe in writing the summe of their agreement, that they afterward differ not between themselves upon the bargain. This is in course Latine else where-called *asscuratio*, This Terme you have *anno 43. Eliz. cap. 11.*

Pondagi. See *Poundage*.

Pone, is a writ whereby a cause depending in the County court, is removed to the common Banke. *old nat. br. fol. 2.* See in what diversitie of cases it is used, in the table of the *Original Register*.

Pone per vadium, is a writ commanding the Shyrevee to take surety of one for his appearance at a day assigned: of this see five sorts in the table of the *Register Judic. verbo, Pone per vadium*.

Ponendis in Affisis, is a writ founded upon the statute of *Westm. 2. ca. 38.* and upon the statute *Articuli super chartas, c. 9.* which statutes do shew, what per-

Persons, Vicounts ought to impannell upon Assizes, and Juries, and what not : as also what number he should empannell upon juries and Inquests, which see in the *Regist. orig. fol. 178.a.* and in *Fitz.nat.br. fol. 165.*

Ponendo in ballum, is a writ whereby to will a prisoner held in prison to be committed to baile in in cases baylable. *Regist. orig. fol. 133.b.*

Ponendo sigillum ad exceptionem, is a writ whereby the King willeth Justices, according to the statute of *West. 2.* to put their seales to exceptions laid in against the plaintiffes declaration by the defendant.

Pontage (*pontagium*) is a contribution toward the maintenance or reedifying of bridges. *Westm. 2. cap. 25. anno 13. Ed. pri.* It may be also tolle taken to this purpose of those that passe over bridges, *anno 39. Eliz. cap. 24. anno 1. H.8. cap. 9.* and see the statute *anno 22. H.8. cap. 5.*

Pontibus reparandis, is a writ directed to the Shyrevee, &c. willing him to charge one or more to repaire a bridge, to whom it belongeth. *Regist. orig. fol. 153.b.*

Portgreve (*portgrevius*) is compounded of two words (*port*) & (*greve*) or (*grave*) i. *praefectus*. It signifieth with us the chiefe magistrate in certaine coast townes,

and as *M. Camden* saith in his *Britan. pag. 325.* the chiefe magistrate of *London*, was termed by this name : in stead of whom *Richard* the first ordeined two Bayliffes : but presently after him, King *John* granted them a Major for their yeerely Magistrate.

Porter of the doore of the Parliament house, is a necessary officer belonging to that high court, and enjoyeth the priviledges accordingly. *Cromptons jurisd. fol. 11.* *Porter in the circuit of Justices*, is an officer that carryeth a verge or white rod before the Justices in *Eyre.* so called, *a portando virgam,* *anno 13. Ed. 1. ca. 24.*

Porter bearing verge (*virgator*) before the Justices of either bench, *anno 13. Ed. 1. cap. 41.* See *Vergers.*

Portmote, is a word compounded of (*port. i. portus*) and the *Saxon* (*Gemettan. i. convenire*) or of the *French* (*mot. i. dictio, verbum*) It signifieth a Court kept in haven-townes, as *Swainmot* in the forest *Manwood, parte prim.* of his forest lawes, *pag. 111.* it is sometimes called the *Portmoot Court*, *an. 43. Eli. ca. 15.*

Portsale, an. 35. H. 8. cap. 7. i. sale of fish presently upon returne in the haven.

Possession (*possessio*) is used two wayes in our common law, First for lands and inheritance : as, he is a man of large possessions. In

which signification it is also used among the Civilians *sc* : for the thing possessed, *l. possessionum: Cod. commun. utriusque Judic.* Next, for the actually enjoying of that, which either in truth or pretence is ours. And in this signification, there is possession indeed, and possession in law: *pl. cor. fol. 198.* The example there is this : before or untill an office bee found, the King hath only possession in law, and not in deed, speaking of the lands escheated by the attainder of the owner. See *Prærog. fol. 54. & 55.* In this signification also there is an unitie of possession, which the Civilians call *Consolidationem*. Take an example out of *Kitchin, fol. 134.* if the Lord purchase the tenancy held by Heriot service, then the Heriot is extinct by unity of possession : that is, because the seignoury and the tenancy bee now in one mans possession. Many divisions of possession you may read in *Bracton. lib. 2. cap. 17. per totum.*

Post. See *Per.*

Post diem, is a returne of a writ after the day assigned for the returne : for the which the *Custos breviarum* hath foure pence, whereas hee hath nothing, if it be returned at the day : or it may be the fee taken for the same.

Post fine, is a duty belonging to the King for a fine formerly acknowledged before him in his Court which is paid by the cognizee, after the fine is fully passed, and all things touching the same wholly accomplished. The rate thereof, is so much and halfe so much, as was paid to the King for the fine, and is gathered by the Shyrevee of the County where the land &c. lyeth, whereof the fine was levied, to be answered by him into the Exchequer.

Post terme, is a returne of a writ, not onely after the day assigned for the returne thereof, but after the terme also, which may not bee received by the *Custos breviarum*, but by the consent of one of the Judges: it may be also the fee which the *Custos breviarum* taketh, for returne thereof, which is twenty pence.

Postea is a word used for a matter tryed by *Nisi prius*, and returned into the Court of common pleas for Judgement and there afterward recorded. See *Plowden, casu Saunders. fol. 211. a.* See an example of this in *Sir Edw. Cokes reports. volum. 61 Rowlands case. fol. 41. b. & 42. a.* See *Custos breviarum*.

Post disseisen (*post disseisina*) is a writ given by the statute of *Wr. 2. cap. 26.* and lyeth for him that having

having recovered lands or tenements by (*præcipe quod reddat*) upon default, or reddition, is againe disseised by the former disseisour. *Fitzh. nat. br. fol. 190.* see the writ that lyeth for this in the *Register originall*, fol. 208. 2.

Posteriority (*posterioritas*) is a word of comparison and relation in tenure, the correlative whereof is *prioritie*. For a man holding lands or tenements of two Lords, holdeth of his auncienter Lord by *prioritie*, and of his later Lord by *posterioritie*. *Stawn. prærog. fol. 10. & 11.* when one tenant holdeth of two lords, of the one by *prioritie*, of the other by *posterioritie*, &c. *old nat. br. fol. 94.*

Purchase (*perquisitum*) cometh of the French (*pourchasser*, i. *solicitare*, *ambire* :) it signifieth the buying of lands or tenements with money, or other agreement, and not the obtaining of it by title or descent. *Conjunctum perquisitum*. Joynt purchase. *Regist. originall. fol. 143. b.*

Pour faire proclamer, & *que nul en ject fumes ou ordures en fosses ou rivières pres citées*, &c. is a writ directed to the Major, Shyreve, or Bayliffe of a Citie or Towne, commanding them to proclaime, that none cast filth into the ditches, or places neare adjoy-

ning: and if any be cast already, to remove it. This is founded upon the statute, *an. 12. Rich. 2. ca. 13. Fitz. nat. br. fol. 176.*

Pourparty (*propars*, *propartis*, *vel propartiz*) is contrary to (*pro indiviso*) For to make *pourparty* is to divide, and sever the lands that fall to *Parceners*, which before partition they hold jointly, and *pro indiviso*. *old nat. br. fol. 11.*

Pourpresture (*pourprestura*, *vel porprestura*, *vel paraprestura*) seemeth to come from the French (*pourpris*, i. *conseptum*) It is thus defined by *Glanville*, lib. 9. cap. 11. *Pourprestura est proprie, quando aliquid super Dominium Regem injuste occupatur. Ut in Dominici Regis, vel in vijs publicis obstructis, vel in aquis publicis transversis à recto cursu: vel quando aliquis in civitate super regiam plateam aliquid edificando occupaverit: & generaliter, quoties aliquid fit ad nocumentum Regij tenementi, vel Regis vie, vel civitatis.* *Crompt. in his Jurisd. fol. 152.* defineth it thus: *Pourpresture* is properly when a man taketh unto himselfe or incroacheth any thing that hee ought not, whether it be in any Jurisdiction, land, or fraunchis: and generally, when any thing is done to the Nufance of the Kings tenents. *Et idem, eodem, fol. 203.* saith to the same effect, but more

sons, and such as be decrepit, or doe labour of any continuall infirmitie, shall not be compelled to attend. For the statute 2. Hen. 5. cap. 8. (which also worketh upon the same ground) saith, that persons sufficient to travell, shall be assistant in this service.

Pounde (*parcus*) seemeth to signifie generally any inclosure of strength to keep in beasts : but especially, with us, it signifieth a place of strength to restraine cattell being distrained or put in for any trespassse done by them, untill they be replevied or redeemed. And in this signification it is called a pound *overt*, or open pound being builded upon the waste of some Lord within his fee, and is called the Lords pound. For hee provideth it to his use, and the use of his tenants. See *Kitchin*, fol. 144. It is divided into pound open, and pound close : pound open or overt, is not onely the Lords pownd, but a back-side, court, yarde, pasture, or else whatsoever, whither the owner of any beasts impounded may come to give them meate and drinke without offence, for their being there, or his comming thither : pound close is then the contrary viz. such a one as the owner cannot come unto, to the purpose aforesaid without offence, as

some close house, or such like place.

Poundage, is a Subsidy granted to the King of all manner of merchandizes of every merchant denizen and alien, carried out of this Realme, or brought into the same by way of Merchandize, to the valew of twelve pence in every pound, *an. 12. Ed. 6. cap. 13. an. 31. Elizab. cap. 5. anno 1. Jacobi, cap. 33.*

Prayage. See *Age prier*.

Pray in ayd. See *Ayd*.

Prebend (*prebenda*) is the portion, which every member or Canon of a Cathedrall church receiveth in the right of his place, for his maintenance. And though use have wrought the Latine word into the nature of a Substantive : yet I thinke it originally to be an adjective, or participle, and to have beene joyned with (*pars* or *portio*) as (*Canonica portio*) which is in manner all one in signification. How bee it (*Canonica portio*) is properly used for that share which every Canon or Prebendary receiveth yearly out of the common stock of the Church : and *prebenda* is a severall benefice rising from some temporall land, or church appropriated, toward the maintenance of a clerk, or member of a collegiat Church ; and is commonly surnamed of the place, whence, the profit groweth. And Pre-

bends be either simple, or with dignitie. Simple Prebends be those, that have no more but the renew toward their maintenance : Prebends with dignity are such, as have some jurisdiction annexed unto them, according to the divers orders in every severall Church. Of this see more in the title. *De Pæbendis, & dignitat.* in the *Decretals*. *Alciat* saith, that (*Præbenda*) in the plurall number and neuter gender was anciently used : as now (*præbenda*) in the singular number, and feminine gender is used. *parerg. c. 1. 43.*

Præbendary (*præbendarius*) is he that hath a *præbend*. See *Præbend*.

Præcept (*præceptum*) is diversly taken in the common law, sometime for a commandement in writing sent out by a Justice of peace, or other for the bringing of a person one or more, or records before him : of this you have examples of divers in the table of the *Reg. Judiciall* : And this use seemeth to be borrowed from the customes of Lombardy, where *præceptum* signifieth *scripturam, vel instrumentum*. *Hot. in verbis feudal. & libro 3. Commentariorum, in libros feudorum, in præfatione*. Sometime it is taken for the provocation, whereby one man inciteth another to commit a felony, as theft, or murder. *Stawf. pl. cor. fol. 105. Bracton*

calleth it (*præceptum*) or (*mandatum*) *lib. 3. tract. 2. ca. 19.* whence a man may observe three diversities of offending in murder : *Præceptum, fortia, consilium* : *præceptum*, being the instigation used before hand, *fortia*, the assistance in the fact, as helpe to binde the party murdered, or robbed : *consilium*, advise either before, or in the deed. The Civilians use (*mandatum*) in this case, as appeareth by *Angelus in tracta. de maleficijs. vers. Sempronium Mandatorem*.

Preceptories, *an. 32. H. 8. cap. 24.* were benefices in a kind, and termed preceptories, because they were possessed by the more eminent sort of the Templers, whom the chiefe master by his authority created, and called (*præceptores Templi*) *Joach. Stepha. de Jurisdic. li. 4. c. 10. nu. 27.* See *Comaundry*.

Præcipe quod reddat, is a writ of great diversity touching both the forme and use, for better declaration whereof see *Ingressus*, and *Entry*. This forme is extended as well to a writ of right, as to other writs of entry, or possession. *old nat. br. fol. 13.* and *Fitzber. nat. br. fol. 5.* And it is called sometime a writ of *Right close*, as a *præcipe in capite*, when it issueth out of the Court of common pleas for a tenant holding of the King in chiefe, as of

of his Crowne, and not of the King, as of any honour, castle, or maner. *Register orig. fol. 4. b. Fitz. nat. br. fol. 5. F.* Sometime a writ of Right patent: as when it issueth out of any Lords Court, for any of his tenants deforced against the deforcer, and must be determined there. Of this reade more at large in *Fitz. nat. br.* in the very first chapter or writ of all his booke.

Premunire, is taken either for a writ, or for the offence whereupon this writ is granted. The one may well enough be understood by the other. It is therefore to be noted, that the Church of Rome under pretence of her supremacy and the dignity of Saint Peters chaire, grew to such an incroaching that there could not be a benefice (were it Bishoprick, Abbath, or other) of any worth here in England, the bestowing whereof could escape the Pope by one meanes or other. In so much, as for the most part hee granted out Mandates of Ecclesiasticall livings, before they were voide to certaine persons by his bulls, pretending therein a great care to see the Church provided of a Successor before it needed. Whence it grew that these kinde of Bulls were called (*Gratie expectativa*) or (*Provisiones*) whereof you may reade a learned discourse in *Duarenus*

that worthy Civilian in his treatise, *De beneficiis lib. 3. ca. 1.* and in his treatise *De immunitate ecclesie Gallicane*. These provisions, were so rife with us, that at the last, King *Edw. the Third*, that heroicall Prince, not digesting so intollerable an oppression, made a statute in the 25. yeare of his raigne, *stat. 5. cap. 22.* and another *stat. 6. ejusdem anni. cap. pri.* and a third *anno 27.* against those that drew the Kings people out of the Realm, to answer of things belonging to the Kings Court; and another *anno 28. statu. 2. c. 1. 2, 3. & 4.* to the like effect: whereby he greatly restrained this liberty of the Pope. Yet such was the wantonnesse that grew out of his power, and the impatience of Princes in those dayes, that he still adventured the continuance of these provisions: in so much as King *Richard the second* made likewise a statute against them in the Twelfth yeare of his reigne, *ca. 15.* and the 13. yeare *stat. 2. ca. 2.* making mention of the said first statute of *Edward the third*, ratifying the same, and appointing the punishment of those, that offended against it to bee perpetuall banishment, forfeiture of their lands, tenements, goods, and cattells, as by the same doth more at large appeare. And againe in the 16.

yeare of his raigne, *cap. 5.* to meet more fully with all the shifts invented to defraud these former Statutes, hee expresseth the offence more particularly, and setteth the same punishment to it, that hee ordained in the last former statute. For there toward the end hee hath these words: if any purchase or purchase or do to be purchased, or per-viewed in the Court of Rome, or else-where any such translations, processses and sentences of excommunication, Bulls, Instruments, or any other things, &c. After him, *K. Henr. the Fourth* in like manner grieved at this importunie by other abuses not fully met within the former statutes in the second yeere of his reigne, *cap. 3.* and *4.* addeth certaine new cases, and layeth upon the offenders in them the same censure, whereunto for shortnesse sake I referre you: admonishing likewise to adde the Statute, *anno 9. ejusdem cap. pri. & anno 7. cap. 9. & 8. & anno 9. ejusdem, cap. 8. & anno 3. H.5. cap. 4.* Out of which statutes have our professors of the common lawe, wrought many dangers to the Jurisdiction Ecclesiasticall, threatening the punishment contained in the statute *anno 27. Edw. 3. & 38. ejusdem*, almost to every thing, that the court Christian dealeth in, pretending all things delt

within those Courts to bee the disherison of the Crowne, from the which, and none other fountaine, all Ecclesiasticall Jurisdiction is now derived: whereas in truth *Sir Tho. Smith* saith very rightly and charitably, that the uniting of the Supremacy Ecclesiasticall and temporall in the King utterly voideth the use of all those statutes. *Nam cessante ratione cessat lex.* And whatsoever is now wrought or threatned against the Jurisdiction Ecclesiasticall, by colour of the same, is but in emulation of one court to another: and by consequent a derogation to that authoritie from which all Jurisdiction is now derived, and the maintenance whereof was by those Princes especially purposed. But of this reade *Sir Thomas Smith, li. 3. de Rep. Ang. cap. 9.*

Some later statutes doe cast this punishment upon other offenders; as namely the statute, *anno 1. Eliz. cap. prim.* upon him that denieth the Kings supremacy the second time, &c. and the statute *anno 13. Eliz. cap. 2.* upon him that affirmeth the authoritie of the Pope: or that refuseth to take the oath of Supremacie. and the Statute *an. 13. Eliz. cap. 1.* such as bee, seditious talkers of the inheritance of the Crowne, or affirme the Queens Majestie

to bee an heretique. And the word is applyed most commonly to the punishment first ordeined by the statutes before mentioned, for such as transgressed them : but in latter times imposed upon other offences. For that, where it is said that any man for an offence committed shall incurre a *prémunire*, it is meant, that hee shall incurre the same punishment, which is inflicted against those that transgresse the statute made, *anno 16. R. 2. c. 5.* which is commonly called the statute of *premunire*, which kinde of reference is not unusuall in our statutes. For example, I shew only the statute, *anno 5. Elizab. ca. 5.* where it is inacted, that if any man preach or teach by writing, that the common counsell of the Realm doe by that statute forbid flesh to be eaten, as of necessitie for the saving of mans soule, that he shall for such preaching, &c. be punished as they bee, which be spreaders of false newes : having reference thereby to those statutes which containe the punishment of such offenders.

Now touching the Etymologie of this word (*Premunire*) some thinke it proceedeth from the strength given to the Crown by the former statutes, against the usurpation of forraigne and unnaturall power : which opi-

nion may receive some ground from the Statute, *anno 25. Edward. 3. stat. 6. cap. pri.* But other thinke it to grow from the verbe (*Pramonere*) being barbarously turned into (*premunire*) which corruption is taken from the rude Interpreters of the Civile, and Cannon lawes, who indeed doe use the effect (*Premunire*) many times for the efficient cause (*Pramonere*) according to the proverbe : Hee that is well warned, is halfe armed. And of this I gather reason from the forme of the Writ, which is thus conceived in the old *nat. br. fol. 143. Premunire facias prefatum prepositum & I. R. procuratorem, &c. quod tunc sint coram nobis, &c.* for these words can bee referred to none, but parties charged with the offence.

Prepositus ville, is used sometime for the Constable of a town, or petit Constable. *Crom. Jurisd. fol. 205.* howbeit the same author. *fol. 194.* seemeth to apply it otherwise, for there *quatuor homines prepositi*, bee those 4. men, that for every towne must appeare before the Justices of the Forest in their circuit. It is used sometime for a Reeve. See *Reeve.*

Prærogative of the King (*prærogativa regis*) is that especial power,

power, preeminence, or privilege that the King hath in any kinde over and above other persons, and above the ordinarie course of the common law, in the right of his crown. And this word *Prærogativa* is used by the Civilians in the same sence. *l. Rescriptum. 6. Sect. 4. π de hono. & muner.* But that privilege that the Romane Emperour had above common persons, they for the most part comprised *sub jure fisci. π de jure fisci, per totum tit. & Co. li. 10. tit. 1.* Among the Feudists this is termed (*ius regaliū, jus regaliū, vel à nonnullis ius regaliū*) But as the Feudists, *sub jure regaliū*, so our Lawyers (*sub prærogativa regis*) doe comprise also, all that absolute height of power that the Civilians call (*majestatem, vel potestatem, vel ius imperij*) subject only to God: which *regalia* the Feudists divide into two sorts, *majora sc. & minora regalia.* for to use their owne words, *Quadam regalia, dignitatem, prærogativam, & imperij præminentiam spectant: quadam verò ad utilitatem, & commodum pecuniarium immediate attinent: & hæc propriè fiscalia sunt, & ad ius fisci pertinent.* *Peregrini: de jure fisci, li. 1. ca. 1. nn. 9.* See also *Arnoldus Clapmarius. de arcanis imperij. lib. 1. cap. 11. & seqq.* who seemeth to make difference be-

tween *majestatem, & ius regaliū.* Others make those (*majora regalia*) that appertaine to the dignity of the Prince, and those *minora*, which enrich his coffers. *Regnerus Sixtinus, de jure regali. cap. 2.* By this it appeareth, that the statute of the Kings prerogative made, *anno 17. Ed. 2.* contains not the summe of the Kings whole prerogative, but onely so much thereof, as concernes the profit of his coffers growing by vertue of his regall power and crowne; for it is more then manifest, that his prerogative reacheth much farther: yea, even in the matters of his profit, which that statute especially consisteth of. For example, it is the Kings prerogative to grant protection unto his debtours against other creditours, untill himselfe be satisfied. *Fitz. nat. br. fol. 28. B.* to distreine for the whole rent upon one tenent, that hath not the whole land. *Idem fol. 235. A.* to require the ancestors debt of the heire, though not especially bound. *Brit. ca. 28. fol. 65. b.* to seise upon money paid by his debtour into a Court, for the satisfaction of an executor. *Plowden, fol. 322. a.* to permit his debtours to siew for their debts by a (*Quominus*) in the Exchequer. *Perkins Graunt.* to be first paid by one that oweth money both to him

him and others, *Dyer. fol. 67. nu. 20.* to take the lands of accountants into his hands for his owne satisfaction. *Plowd. casu. Almes. fol. 321. & 322.* to take his action of account against executors, *eodem fol. 320.* not to be tyed to the demand of his rent. *Coke. li. 4. fol. 73. a.* Now for those regalities which are of the higher nature (all being within the compasse of his prerogative, and justly to be comprised under that title) there is not one that belonged to the most absolute prince in the world, which doth not also belong to our King, except the custome of the nations so differ (as indeed they do) that one thing be in the one accounted a regality, that in another is none. Onely by the custome of this kingdome, he maketh no lawes without the consent of the 3. Estates, though he may quash any law concluded by them. And whether his power of making lawes be restrained (*de necessitate*) or of a godly and commendable policy, not to be altered without great perill, I leave to the judgement of wiser men. But I hold it incontrowlable, that the King of England is an absolute King. And all learned politicians doe range the power of making lawes, *inter insignia summe & absolute potestatis. Majra autem regalia sunt hæc : clausula plenitudinis potestatis, & ex ea*

aliquid statuere, leges condere, ac eas omnibus & singulis dare, bellum indicere, belli indicendi licentiam alii dare, pronunciare ita ut a sententia appellari non possit, committere sive delegare alicui causam cum clausula appellatione remota, cognoscere de crimine lese majestatis, legitimare per rescriptum eos qui extra legitimum matrimonium nati sunt, ad famam honores, & natales in integrum restituere, veniam ætatis dare, creare Duces, Marchiones, Comites, regnum in feudum concedere. Huc referri potest jus erigendi scholam, quæ hodie Universitas vel Academia appellatur, etiam jus creandi doctores, gradu licentiæ aliquem insigniendi, creandi magistratus, tabelliones, sive notarios, ius dandi insignia nobilitatis, sive nobiles creandi, ius cudendæ monetæ, nova vectigalia instituendi, vel instituta vectigalia augendi; Sixtinus ubi supra. So that these other which are mentioned in *libri feudorum*, and the interpreters of them are (at the least for the most part) justly called *regalia minora*, as *armandiæ, viæ publicæ, flumina navigantia, portus, ripalia, vectigalia, monetæ, militarum panarumq; compendia, bona vacantia, bona quæ indignis auferuntur, bona eorum qui incestum matrimonium contrahunt, bona damnatorum, & postscriptorum, angarie & parangarie, extraordinarie* ad

ad expeditionem imperatores collationes, potestas creandorum magistratum ad iusticiam exequentiam, argentarie, palatia, in civitatibus constituta, piscationum redditus, salinarum redditus, bona committentium crimen lese majestatis, thesaurus inventus. By setting downe these regalities of both sorts, as they are accounted in the Empire, and other forrein Kingdomes, they may bee the more easily compared with our kings prerogatives, and so the differences noted between us and them. And whereas some things are before reckoned both (*inter regalia majora, et minora*) the Reader must understand that this may bee in divers respects. For example, the power of raising a tribute, or of coyning money, is *inter majora*: but the profit that groweth to the Prince by the one or other, is (*inter minora*) Now may there also be noted out of books a great number of prerogatives belonging to the King of this land, which doe not bring profit to his coffers immediately, and therefore may be accounted *inter regalia majora*, or at the least, in a middle or mixt nature, or *inter majora et minora*, because by a consequent they tend to the increase of the Kings Exchequer. Of these such as I have observed in reading, I will set downe as they come to my

hands, without farther curiositie in dividing. It is the Kings prerogative that hee may not bee shewed upon an ordinary Writ as tenent to lands, but by petition. *Plowd. casu Walsingham, f. 553.* to have a necessary consent in the appropriation of all benefices. *Idem, casu Grendon. fol. 499.* to waive and to demurre, and to plead to the issue, or to waive the issue, and to demurre upon the plee of the advers parts, yet not to change the issue another terme after he and the advers part bee once at issue. *Idem, casu Willion. fol. 23. 6. a. & casu Mines fol. 322. a.* to bee received in a suit before issue joyned upon an (*ayde prier*) *Idem, casu Dutchy of Lancaster, fol. 221. b.* to bee never in nonage, *eodem, f. 218. b.* that a man indicted may not wage battell with him. *Idem casu nimes fol. 335. b.* that no man upon any right may enter upon him being in possession, but must be put to suite. *Dyer f. 139. uu. 33.* to seise the lands of his tenents that alienate without license, *Plowd. casu. Mines. fol. 322. a.* that no subject may wage his law against him. *Broke. chose in action, 9. Coke. lib. 4. fol. 93.* to present in the right of the youngest coparcener being his warde before the elder. *Plowd. casu. Mines. fol. 332. b. & fol. 333. a.* that a benefice by institution is not

not full against him. *Coke Dig-
bies* o. f. 79. a. not to finde pledges
for the persecuting of any action.
For he cannot be amerced. *Fitzb.
nat. br. fol. 31. F. & f. 47. C.* To shew
in what Court he will. *Fitz. na. b.
fol. 7. B. & 32. E.* to shew the writ
No admittas after six moneths. *reg.
orig. f. 31. a.* that a mans villein ha-
ving remained in his ancient de-
mein by the space of a yeere, may
not bee recovered by the writ,
(*de nativo habendo*) *Fitzb. nat.
br. fol. 79. A.* to grant an office
with the (*habendum post mor-
tem alterius*) *Dyer. fol. 295. nu. 1.*
to shorten the ordinary time of
summons (being 15. dayes) in
writ of right, *Brut. ca. 121.* to
give what honour or place he li-
steth to his subjects. *anno 31. H.
8. ca. 10.* to be owner of a forrest.
See *Forrest.* to have free warren.
See *Warren.* Not to be owted of
his free hold. *Cromptons Justice
of peice. fol. 59. b. & 16. a.* to
araigne a man being both a Trai-
tor and a Felon, rather upon the
treason, then upon the felonie,
because he may have the whole
escheates. *idem eodem fol. 99.
a.* to warrant the day of appea-
rance to his subject beeing in his
service, and summoned to ap-
peare at a day certaine. *Fitzb. nat.
br. fol. 17. a.* Divers of these, and
many others did belong (*fisco
imperatorum*) which you may
finde in the *Digest* : *de jure fisci.*

& *Co. lib. 10. sic 1.* Besides these
also many moe may be observed
to belong unto our King out of
lawes, which I leave to their col-
lection which are of longer rea-
ding, and more painfull industry.

*Prerogative of the Archbishop
of Canterbury, or Yorke* (*prerogati-
ua Archiepiscopi Cantuariensis, seu
Eboracensis*) is an especial pre-
eminence that these Sees have in
certaine cases above ordinary Bi-
shops within their Provinces. And
that of the Archbishop of Canter-
bury, principally consisteth of these
points.

First, in the confirmation of
all elections made of Bishops by
the Deane and Chapter of all Ca-
thedrall Churches, as also the
consecration of them.

Next in a power of visiting
his whole Province, of assem-
bling Synods, of supplying the
defects and negligences of in-
feriour Bishops, of receiving
appeales from their Courtes,
of assigning coadiutors to those
Bishops that grow weake and
insufficient to discharge their
function, of appointing Vi-
cars generall to those that have
either none, or an insufficient
man employed in that Office:
and of dispensing in all Eccle-
siasticall cases, wherein the
lawes beare dispensation: of ta-
king oath of every Bishop, at
his confirmation, to performe

canonicall obedience unto the See of *Canterbury*. But these seeme to belong unto him by an ordinary Archiepiscopall authority.

Certain other things there be, that appertain unto him more then ordinarily to other Archbishops: as the originall calling of any person, in any cause belonging to spirituall jurisdiction, out of any part of his province, though not appealed. But this point is now limited by the Statute made, anno 23. H. 8. cap. 9.

The receiving of an appeale from the lowest Judge Ecclesiastical within his province immediately. The appointing of a keeper or guardian of the spiritualities during the vacancie of any Bishoprick. By which meanes all Episcopall rites of the Diocese, for that time doe belong unto him: as Visitation, Institution to Benefices, and such like.

The Visitation of every Diocese within his province, when and in what order it pleaseth him. As also of all other privileged Churches. The probat of Testaments and granting of Administrations, in case where the party deceased hath goods of any considerable value out of the Diocese wherein he dyeth. And that value is ordinarily five pounds, except it be otherwise by composition betweene the said Archbishop, and some other Bishop:

as in the Diocese of *London* it is ten pounds.

The probat of every Bishops Testament, or the Administration of his goods, dying intestate, though not having any goods, chatels, or debts without the compasse of his owne jurisdiction. The bestowing of any one dignity or Prebend in any Cathedral Church upon the creation of a new Bishop, that himselfe thinketh good to make choice of.

There may be more particulars of this prerogative, that I know not: but these may be sufficient to expresse the thing that I desire to declare. Who so desireth to reade these more at large, and other priviledges of this Church in temporal matters, may resort to the booke intituled: *De antiquitate Britannicæ Ecclesiæ, & nominatim de privilegiis Ecclesiæ Cantuariensis historia*, and especially to the eighth chapter of the said booke pa. 25.

Prerogative Court (*curia prerogative Archiepiscopi Cantuariensis*) is the Court wherein all Wills be proved, and all Administrations taken, that belong to the Arch-bishop by his prerogative, which see in *Prerogative*. And if any contention doe grow between two or more touching any such Will or Administration, the cause is properly debated and deter-

determined in this Court. The Judge of this court is called *Judex Curie prerogative Cantuariensis*. The Arch-bishop of Yorke hath also the like power and court, which is termed his Exchequer, but farre inferior to this in countenance and profite.

Prescription (prescriptio) is a course or use of any thing for a time beyond the memory of man, as the exposition of the law termes doth define it. *Kitchin fol. 104.* saith thus: Prescription is, when for continuance of time, whereof there groweth no memory, a particular person hath particular right against another particular person. And custome is, where by continuance of time beyond memory, divers persons have gotten a right: with whom agreeth *Sir Edward Cooke, lib. 4. fol. 32. a.* And usage is by continuance of time the efficient cause of them both, and the life of both prescription and custome. Thus saith *Kitchin*. But as in the Civill law, so I thinke likewise in the common, Prescription may be in a shorter time. As for example, where the Statute *anno. 1. H. 8. ca. 5.* saith, that all actions popular must be shewed within three yeeres after the offence committed, and the Statute *anno 7. ejusdem. ca. 3.* That foure yeeres being past af-

ter the offence committed in one case, and one yeere in another, no suite can be commenced, and the Statute *31 Elizabeth. c. 5.* saith, (by way of correcting the two former statutes) that all actions, &c. brought upon any Statute, the penalty whereof belongeth to the King, shall bee brought within two yeeres after the offence committed; or else be voyd. And the statute *anno 39. Eliz. cap. prim. & secund.* saith that actions brought after two yeere by any common person, or after three yeeres by the King alone for decay of husbandry or tillage, shall be of no force. Whosoever offendeth against any such statute, and doth escape uncalled for two yeeres, or three yeeres, in one case of the two latter of these three statutes, may justly bee said to have prescribed an immunity against that action. The like may be said of the statute made *anno 43. Elizabeth cap. prim.* which saith, that all offences comprised in that statute made in the 13. yeere of *Elizab. cap. 2.* are inquirable before both Justices of peace and of Assise, within one yeere and a day, after the offence committed. Also the title that a man obtaineth by the passing of five yeeres after a fine acknowledged of any lands or tenements, may

justly be said to be obtained by prescription. And whereas the Statute *anno 8. R. 2. ca. 4.* saith, that a judge or Clerke convicted for false entering of pleas, &c. may be fined within two yeeres; the two yeeres being ended, he prescribeth against the punishment of the saide Statute; and whereas the Statute *anno 11. H. 7.* saith, that he which will complaine of maintenance, or embracery, whereby perjury is committed by a Jury, must doe it within fixe dayes, those fixe dayes ended, the parties prescribe: and whereas the Statute *anno pri. Ed. 6.* saith, that a man being not indicted within 3 moneths of any offences there mentioned touching Service and Sacraments, hee shall be cleare from thence forward: the three moneths being ended, hee prescribeth: and the same may bee said of the statute *anno 5. Ed. 6. cap. 5.* which saith that a man shall not bee indicted of any offence there mentioned touching the decay of tillage, after 3 yeeres. And whereas it is ordeined by the statute *anno 8. H. 6. ca. 9.* that those which keepe possession of lands by force after 3 yeeres possession held by themselves and their ancestors, shall not be subject to the arbitrement of Dissolours there set

downe, I hold this a prescription likewise against those censures. *v. anno. 23. H. 6. ca. 15.* Lastly a servant prescribeth liberty after 2 yeere. *Bracton li. 1. ca. 10. nu. 3.* and the right that is gotten in any Stray to a Lord of a manner, no man clayming it within the yeere and day after proclamation made, is an usucapion, or prescription. See *Action perpetuall, and temporall.* And see *Cromptions Justice of peace fo. 173. b. ubi habebis festum.* But see one rule for all in *Lam. Eirenarch. lib. 4. ca. 5. pag. 469.* Of this prescription and the learning touching the same, you may read a solempne report in *S. Edwards Cooks, & Luttrells case vol. 4. f. 84. b. & seq.*

Presantation (*Presentatio*) is used properly for the act of a patron offering his Clerke to the Bishop, to be instituted in a benefice of his gift: the forme whereof see in the *Register original. fol. 922. a.*

Presentment, is a meere denuntiation of the Jurours themselves, or some other officer, as Justice, Constable, searcher, survelours &c. (without any information) of an offence inquireable in the Court whereunto it is presented. See *Lambard Eirenarch. lib. 4. ca. 5. pag. 467.*

President (*Præses*) is used in the common law for the kings Lieut.

Lieutenant in any Province or Function, as President of Wales, of Yorke, of Barwicke, President of the Kings Councell : Anno 22 Hen. 8, cap. 8. & anno 24 Hen. 8, cap. 3, & 14.

Pregonary (*Protonotarius*) is a word that seemeth to bee made either of two French words, *prime* or *primier*, i. *primus*, and *Notaire*, i. *Notarius*, *tabellio* : Or of two Latine words, *pro* & *notarius*, *quasi primus aut principalis notarius*. The office is likewise borrowed from the later Romanes, who made his name of halfe Greek and half Latine, *viz. πρῶτος* i. *primus*, *principalis*, and *Notarius*. It is used in our Common Law, for the chiefe Clerks of the kings Courts, whereof three bee of the Common pleas, and one of the Kings Bench. For the Pregonary of the Common pleas, anno 5 H. 4, ca. 14, is tearmed the chiefe Clerke of that Court. Hee of the Kings Bench recordeth all actions Civile siewed in that Court, as the Clerke of the Crowne office doth all criminall Causes. Those of the Common pleas doe enter and inrolle all manner of Declarations, pleadings, assises, and judgements : and all actions the same terme that the apparance is made. Also they make out all judicall writs, as the *Venire facias* after issues joy-

ned, and *Habeas corpus* for the bringing in of the Jury, after it is returned upon the *Venire facias*. They also make forth writs of executions and of seisin, writs of *Superfedeas*, for appearance to Exigents, as well as the Exigents and writs of priviledges, for remooving of Causes from other inferiour Courts of Record, in case where the party hath cause of priviledge. Also writs of *Procedendo*, of *Scire facias* in all cases, and writs to enquire of dammages : and all processe upon prohibitions, and upon writs of *Audita querela* and false judgement. Finally, they inrolle all Recognisances acknowledged in that Court, and all common Recoveries, and may make exemplifications of any record the same term, before the roles be delivered from them.

Prender commeth of the French *prendre*, i. *accipere*, *acceptare*, *capere*, *prehendere*. It signifieth in our Common law, sometime a power or right to take a thing, before it be offered ; as such things as lie in Prender, or such as lie in render : *West parte 2, titulo Fines, Sect. 126* : where you have these words : If the Lord grant the services of his Tenant by fine or otherwise, the Lord before attournement shall have such things as lie in prender : as the ward of the body of the heire and

and of the land : escheats , &c. but not such things as lie in *prender*, as rents and reliefs, heriots and other services. For he cannot avow for them before the attournment.

Prender de Baron signifieth literally in barbarous French to take a husband : But it is used in our common law, as an exception to disable a woman from persiewing an appeale of murder against the killer of her former husband, *Stawns. pl. cor. li. 3. ca. 59.* The reason whereof whether it be, because by her second mariage, she may justly be thought to have given up the interest she had in her former husband, or for that she is now covert again, or for both, I leave to consideration.

Prender del profits, signifieth *verbatim* to take the profits. It signifieth substantively the taking of the profits. See *Cromptons Jurisdic. fol. 185.* See *Pernour of profits.*

Prest, is used for some duty in money to be paid by the Sheriffe upon his account in the Exchequer, *anno secundo & tertio Ed. 6. cap. 4.*

Prest money is so called of the French word (*Prest. i. explicatus, promptus, expeditus*) for that it bindeth those, that have received it, to be ready at all times appointed.

Primage, is a dutie due to the Mariners and Saylers for the loading of any shippe at the setting forth from any Haven, *anno tricesimo secundo Henrici octavi, capitulo decimo quarto.*

Primier seisin (Prima seisin) *ad verbum*, signifieth the first possession. It is used in the common law, for a branch of the Kings Prerogative, whereby hee hath the first possession of all lands and tenements through the Realme holding of him in chiefe, whereof his tenent dyed seised in his demesne as of fee; and so consequently the rents, and profits of them, untill the heire, if he be of age, doe his homage, if hee be under yeeres, untill hee come to yeeres. See *Stawns. prerog. capite tertio, & Bracton libro quarto, tract. 3. cap. pri.*

Primo Beneficio. See *Beneficio.*

Prince (Princeps) is a French word, and taken with us diversly, sometime for the King himselte, but more properly for the Kings eldest-sonne, who is Prince of *Wales*, as the eldest sonne to the French-king is called *Dolphine*, both being Princes by their nativity. Master *Fearn in the glory of generosity, page 138.* For Edward the first, to appease the tumultuous spirits of the Welch-men, who being the ancient *Indige-*

of this land, could not in long time beare the yoke of us, whom they call strangers, sent his wife being with child into *Wales*. Where at *Carnarvan* she was delivered of a Sonne, thereupon called *Edward* of *Carnarvan*, and afterward asked the Welch-men, seeing they thought much to bee governed by strangers, if they would be quietly ruled by one of their owne nation; who answering him, Yea: Then quoth he, I will appoint you one of your owne countrey-men, that cannot speake one word of English, and against whose life you can take no just exception: and so named unto them his Sonne borne in *Carnarvan* not long before. From which time it hath continued, that the Kings eldest sonne (who was before called Lord Prince, *Stamf. prerog. cap. 22, fol. 75.*) hath beene called Prince of *Wales*. *Stowes Annals pag. 303.* See anno vicesimo septimo *Henrici octavi cap. 26.* & anno 28. *ejusdem, cap. 3.*

Principality of Chester. anno 21. Rich. 2. cap. 9. See *County-palatine*, and *Cromptons divers jurisdictiones*, fol. 137.

Prior perpetual, or datife & removeable, anno 9. R. 2. cap. 4. and anno 1. *Ed. 4. cap. 1. paulo ante finem.* Lord prior of *Saint Johns of Jerusalem*, anno 26. *H. 8. cap. 2.*

Priors, aliens (Priores alieni)

were certain religious men, born in *France*, and governours of religious houses, erected for out-landish men, here in *England*; which were by *Henry* the fifth thought no good members for this land, after such conquest obtained by him in *France*, and therefore suppressed. Whose livings afterwards by *Henry* the sixth, were given to other Monasteries, and houses of learning. *Stowes Annales, pag. 582.* See anno 1. *H. 5. cap. 7.* but especially to the erecting of those two most famous colledges, called the Kings Colledges of *Cambridg* and *Eaton*.

Prioritie (prioritas) signifieth in our common-law, an antiquity of tenure in comparison of another not so ancient. As to hold by prioritie, is to hold of a Lord more anciently then of another old *nat. br. fol. 94.* So to hold in posterioritie, is used by *Stamf. prerog. cap. 2. fol. 11.* And *Crompton* in his jurisdiction fol. 117. useth this word in the same signification. The Lord of the prioritie shall have the custody of the body, &c. fol. 120. If the tenant hold by prioritie of one, and by posterioritie of another, &c. To which effect see also *Fitzb. nat. br. fol. 142.* *Bartholus* in his Tractate, *de insigniis & armis*, useth these very words, *prioritas, & posterioritas*, concer-

concerning two that beare one coate armour.

Prisage, seemeth to bee that custome or share, that belongeth to the King out of such merchandize, as are taken at sea, by way of lawfull prize, *anno* 31. *Eliz. cap. 5.*

Prisage of Wines, *anno* 1. *H. 8. cap. 5.* is a word almost out of use, now called *Butlerage*, it is a custome whereby the Prince challengeh out of every barke laden with wine, containing lesse then fortie tunne, two tunne of wine at his price.

Prise (*prisa*) commeth of the French (*prendre. i. capere*) it signifieth in our Statutes, the things taken by purveyours, of the Kings subjects. As *anno* 3. *Edw. 1. cap. 7.* & *anno* 28. *eiusdem stat. 3. cap. 2.* It signifieth also a custome due to the King, *anno* 25. *eiusdem cap. 5.* *Regist. origin. fol. 117. b.*

Prisoner (*priso*) commeth of the French *prisonnier*, and signifieth a man restrained of his libertie upon any action civill or criminall, or upon commandement. And a man may be prisoner upon matter of Record, or matter of fact: prisoner upon matter of record is he, which being present in Court, is by the Court committed to prison, onely upon an arrest, be it of the Shyrevee, Constable, or other.

Stowes. pl. cor. lib. prim. cap. 32. fol. 34. & 35.

Privie, commeth of the French (*privé. i. familiaris*) and signifieth in our common Law, him that is partaker, or hath an interest in any action, or thing: as, *privies of bloud*, *Old nat. br. fol. 117.* be those that be linked in consanguinitie. Every heire in tayle is privie to recover the land intayled, *eadem. fol. 137.* No privitie was betweene mee and the tenent, *Lickton fol. 106.* If I deliver goods to a man to bee carried to such a place, and he after he hath brought them thither, doth steale them, it is felonie: because the privitie of deliverie is determined, as soone as they are brought thither. *Stowes. pl. co. lib. prim. cap. 15. fol. 25.* Merchants privie be opposite to Merchant strangers, *anno* 2. *Edw. tertii, cap. 9.* & *cap. 14.* & *anno eiusdem, stat. 2. cap. 3.* The new Expositour of Law termes maketh divers sorts of privies: as privies in estate, privies indeed, privies in law, privies in right, and privies in bloud. And see the examples he giveth of every of them. See *Perkins Conditions. 831, 832, 833.* and *Sir Edward Cooke, lib. 3. Walkers case, fol. 23. a. & lib. 4. fol. 123. b. & 124. 2.* where hee maketh foure kindes of privies, viz. privies in bloud, as the heire to his father, &c. pri-

privies in representation, as executours or administratours to the deceased: privies in estate, as he in the reversion, and he in the remainder, when land is given to one for life, and to another in fee: the reason is given by the Expeditour of Law termes, for that their estates are created both at one time. The fourth sort of privies are privies in tenure: as the Lord by escheate: that is, when the land escheateth to the Lord for want of heires, &c.

Privie seale (privatum sigillum) is a seale that the King useth sometime for a warrant, whereby things passed the privie signet & brought to it, are sent farther to be confirmed by the great seale of England: sometime for the strength or credit of other things written upon occasions more transitorie and of lesse continuance, then those be that passe the great seale.

Privilege (privilegium) is defined by *Cicero* in his Oration *pro domo sua*, to be *lex privata homini irrogata*. *Freretus in paratitlis ad titulum decretalium de privilegiis* thus defineth it: *privilegium est ius singulare, hoc est, privata lex qua uni homini, vel loco, vel Collegio, & similibus aliis conceditur: cap. privilegia, distinct. 3. priva enim vetores dixerunt que nos singula dicimus. Infit Agellius, li. 10. ca. 20. Ideoque privilegia, modo bene-*

ficia, modo personales constitutiones dicuntur, &c. It is used so likewise in our common Law, and sometimes for the place, that hath any speciall immunitie. *Kitchin fol. 118.* in the words. where debtors make fained gifts and feofments of their land, & goods to their friends, and others, and betake themselves to priviledges, &c. Priviledge is either personal, or reall: a personall priviledge is that, which is granted to any person, either against, or beside the course of the common law: as for example, a person called to be one of the Parliament, may not be arrested, either himselfe, or any of his attendance, during the time of the Parliament. A priviledge reall is that, which is granted to a place, as to the Universities, that none of either may be called to *Westm. hall*, upon any contract made within their owne precincts. And one toward the Court of Chauncery cannot originally be called to any Court but to the Chancery, certaine cases excepted. If he be, he will remove it by writ of Priviledge grounded upon the statute *anno 18. Ed. 3.* See the new booke of *Entries. verbo Privilege.*

Probat of Testaments (probatio testamentorum) is the producing, and insinuating of dead mens wills before the ecclesiasticall Judge, Ordinary of the place,

where the partie dyeth. And the Ordinary in this case is knowne by the quantitie of the goods, that the partie deceased hath out of the Dioces, where he departed. For if all his goods be in the same Dioces, then the Bishop of the Dioces, or the Arch-deacon (according as their composition, or prescription is) hath the probate of the Testament: if the goods be dispersed in divers Dioces, so that there be any summe of note (as five pounds ordinarily) out of the Dioces where the party let his life: then is the Archbishop of *Canterbury* the ordinary in this case by his prerogative. For whereas in old time, the will was to be proved in every Dioces, wherein the partie deceased had any goods: it was thought convenient both to the subject, and to the Archiepiscopall See, to make one prooffe for all before him, who was and is of all the generall ordinary of his Province. But there may be anciently some composition betweene the Arch-bishop and an inferiour ordinary, whereby the summe that maketh the prerogative, is above 5. pound. See *prerogative of the Arch-bishop*. This probate is made in two sorts, either in common forme or *per testes*. The prooffe in common forme, is onely by the oath of the executor, or partie exhibi-

ting the will, who sweareth upon his credulity, that the will by him exhibited, is the last will and testament of the partie diseased. The prooffe *per testes* is, when over and beside his oath, he also produceth witnesses, or maketh either prooffe, to confirme the same, and that in the presence of such as may pretend any interest in the goods of the diseased, or at the least in their absence, after they have beene lawfully summoned to see such a will proved, if they thinke good. And the later course is taken most commonly, where there is feare of strife, and contention betweene the kindred or friends of the partie deceased about his goods. For a will proved onely in common forme, may be called into question any time within thirtie yeares after by common opinion, before it worke prescription.

Procedendo, is a writ whereby a plee, or cause formerly called from a base Court to the Chancery, Kings bench, or common pleges, by a writ of privilege or certiorare, is released, and sent downe againe to the same Court, to be proceeded in there, after it appeareth that the defendant hath no case of privilege, or that the matter comprised in the Bill, be not well proved, *Brooke hoc titulo*, and *Termes*

of law: *Cook vol. 6. fol. 63. a.* See *anno 21. R. 2. ca. 11. in fine*, letters of *procedendo* granted by the keeper of the privie seale. See in what diversitie it is used in the table of the originall Register, and also of the Judiciale.

Proces (*processus*) is the manner of proceeding in every cause, be it personall, or reall, civill, or criminall, even from the originall writ to the end. *Britton. fol. 138. a.* wherein there is great diversitie, as you may see in the table of *Fitzb. nat. br. verbo Proces*, and *Brookes Abridgement, hoc titulo*. And whereas the writings of our common Lawyers sometime call that the *Proces*, by which a man is called into the Court, and no more: the reason thereof may be given, because it is the beginning, or the principall part thereof, by which the rest of the businesse is directed, according to that saying of *Aristotle*, *ἡ ἀρχὴ τῆς πρὸς τὸν δῆμον*.

Divers kinde of *Proces* upon Inditements before Justices of peace: See in *Cromptons Justice of peace, fol. 133. b. 134, 135*. But for orders sake, I referre you rather to *M. Lambard* in his tract of *Processus* adjoyned to his *Eirenrecht*, who according to his subject in hand, divideth criminall *Proces*, either into *Proces* touching causes of treason, or felonie, and *Proces* touching in-

ferior offences: the former is usually a *capias*, *capias aliàs*, & *exigi facias*. The second is either upon inditement, or presentment, or information: that upon inditement or presentment, is all one, and is either generall, & that is a *venire facias*, upon which if the partie be returned sufficient, then is sent out a *Distringas infinite* untill he come: if he be returned with a *Nihil habet*, then issueth out a *Capias*, *Capias aliàs*, *Capias pluries*, and lastly, an *Exigi facias*. The speciall *proces* is that, which is especially appointed for the offence by statute. For the which he referreth his reader to the eight chapter of his 4 booke, being very different.

Processum continuando, is a writ for the continuance of a *Proces* after the death of the chiefe Justice, in the writ of *oyer and terminer*. *Register original. fol. 128. a.*

Prochein Amy (*proximus amicus, vel propinquus*) is word for word, a neere friend. It is used in our common Law, for him that is next of kinne to a childe in his nonage, and is in that respect allowed by law, to deale for him in the managing of his affaires: as to be his *Gardian*, if he hold of any in socage, and in the redresse of any wrong done unto him, be it by his *Gardian*, if he be ward, and hold in Chival-

rie, or any others. *Stat. West. pri. cap. 48. 3. Ed. p. i. and Westm. 2. cap. 15. anno 13. Ed. pri.*

Prose, aliàs *Prove*, is used for an Enquest, *anno 28. Ed. 3. cap. 13.*

Proclamation (Proclamatio) signifieth a notice publickly given of any thing, whereof the King thinketh good to advertise his subjects. So it is used *anno 7. Ric. 2. ca. 6.* Proclamation of rebellion is a publicke notice given by the officer, that a man not appearing upon a *Subpana*, nor an attachment in the Starre Chamber or Chancery, shall be reputed a rebell, except hee render himselfe by a day assigned, *Cromptons Jurisd. fol. 92.* See *Commission of rebellion.*

Proclamation of a fine, is a notice openly and solemnly given at all the Assizes, that shall be holden in the Countie within one yeare after the ingrossing of the fine, and not at the foure generall quarter sessions. And these Proclamations bee made upon transcripts of the fine, sent by the Justices of the commonplees, to the Justices of Assise, and the Justices of peace. *West. parte 2. symbo. titulo Finis. sect. 132.* where also you may see the forme of the Proclamation. *Proclamare est p. l. m. & valde clamare*, used by *Tullie, Livie*, and the *Civilian. π. Quibus ad liberta pre-*

clamare non licet. And *Proclamator* signifieth him *qui litem intendit, vel causam agit.* *Cicero de oratore. lib. pri. Non enim causidicum nescio quem, neque proclamatorem, aut rebulam hoc sermone conquirimus, &c.* I reade in *Fitzb. nat. br. fol. 85. C.* that the Kings proclamation is sufficient to stay a subject from going out of the Realme. See the force of proclamations *an. 31. H. 8. ca. 8.* see also proclamations in divers cases. *New booke of Entries. verbo Proclamation.*

Proctors of the Clergie (procuratores cleri) are those which are chosen and appointed to appeare for Cathedrall, or other Collegiate Churches, as also for the common Clergie of every Dioces, at the Parliament, whose choice is in this sort. First, the King directeth his writ to the Arch-bishop of each Province for the summoning of all Bishops, Deanes, Arch-deacons, cathedrall and collegiat churches, and generally of all the clergie of his Province, after their best discretion and judgement, assigning them the time and place in the said writ. Then the Arch-bishops proceede in their accustomed course. One example may serve to shew both. The Arch-bishop of *Canterbury* upon his writ received, directeth his letters to the Bishop of *London* as his

his Dean *provinciall. 1. sect. statumimus de panis & verb. tanquam in glos.* first citing himselfe peremptorily: and then willing him to cite in like manner all the Bishops, Deanes, Arch-deacons, cathedrall and collegiate churches, and generally all the Clergie of his Province to the place, and against the day prefixed in the writ. But directeth withall that one Proctor sent for every Cathedrall or Collegiate Church, and two for the bodie of the inferiour Clergie of each Diocesse, may suffice. And by vertue of these Letters authentically sealed, the said Bishop of London directeth his like Letters severally to the Bishop of every Diocesse of the Province, citing them in like sort, and commanding them not onely to appeare, but also to admonish the said Deanes, and Archdeacons personally to appeare, and the Cathedrall and collegiat Churches, as also the common Clergie of the Diocesse to send their Proctors to the place, and at the day appointed: and also willeth them to certifie the Arch-bishop the names of all and every so monished by them, in a shedule annexed to their Letters certificatorie. The Bishops proceed accordingly, and the Cathedrall and collegiat Churches, as al-

so the Clergie make choice of their Proctors: which done, and certified to the Bishop, hee returneth all answerably to his charge at the day. These Proctors of the Clergie, howsoever the case of late dayes is altered, had place & suffrage in the lower house of Parliament, as well as the Knights, Citizens, Barons of the Cinque ports, and Burgesses. For so it plainly appeareth by the statute *anno 21. R. 2. cap. 2. & cap. 12.* And sithence they were remooved, the Church hath daily growne weaker and weaker: I pray God that in short time shee famish not, but that her liberties bee better maintained.

Procurator, is used for him that gathereth the fruites of a benefice for another man. *anno 3. R. 2. stat. 1. cap. 2.* And *procuracy* is used for the specialtie, whereby he is authorized. *Ibid.* They are at this day in the West parts called *Proctors*.

Profer (*proferum vel proferum*) is the time appointed for the accompts of Shyreeves, and other officers in the Exchequer, which is twice in the yeare, *anno 51. H. 3. statute quint.* And it may be gathered also out of the *Regist. fol. 139.* in the writ *De Attornato Vicecomitis pro profero faciend.* I reade also of *profers*, *anno 32. H. 8. cap. 21.* in these words:

Trinitie Terme shall beginne the Monday next after Trinitie Sunday, whensoever it shall happen to fall, for the keeping of the essoines, profers, returnes, and other ceremonies heretofore used and kept. In which place (*profer*) seemeth to signifie the offer, or indeavour to proceed in action by any man, whom it concerneth so to doe. See *Britton. cap. 28. fol. 50. b. & 55. a. & fol. 80. b. and Fleta li. 1. ca. 38. sect. Utlagati & seqq.*

Profer the balse marke. See *Halfe marke.*

Profession (*professio*) is in the common law, used particularly for the entering into any religious Order of Friars, &c. New booke of Entries, *verbo Profession.*

Profits apprender. See *Prender.*

Prohibition (*prohibitio*) is a writ framed for the forbidding of any Court, either spirituall or secular, to proceede in any cause there depending, upon suggestion, that the cognition thereof belongeth not to the said Court. *Fitz. nat. br. fol. 39. G.* but is most usually taken, especially in these dayes, for that writ which lyeth for one that is impleaded in the *Court Christian*, for a cause belonging to the temporall jurisdiction, or the cognisance of the Kings court, whereby as well the partie and his Councell,

as the Judge himselfe, and the Register, or forbidden to proceed any farther in that cause: for that it appertaineth to the dis-inheritance to the Crowne of such right as belongeth unto it. In how many cases this lyeth, see *Broke hoc titulo*, and *Fitz. na. br. fol. 39. & seqq.* This writ, and the *premunire*, might in these dayes well be spared: for they were helpees to the Kings inheritance and Crowne, when the two swords were in two divers hands. Whereas now both the Jurisdictions being settled in the King, there is small reason of either, except it be to weary the subject by many quircks and delays, from obtaining his right: of this prohibition, you may reade *Bracton* also *lib. 5. tract. 5. cap. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12.* who saith, that it lyeth not after sentence given in any cause, howsoever the case is altered: and againe, the statute made, *anno 50. Ed. 3.* which ordaineth, that above one prohibition should not lye in one cause. See the diversitie of prohibitions in the table of the *originall Regist.* See the new booke of Entries, *verbo, Prohibition*, and *Fitz. nat. br. fol. 39.*

Prohibitio de vasto directis partii, is a writ Judiciall directed to the tenant, and prohibiting him from making waste upon the land

land in controversie, during the suite. *Register judicall, fol. 21.* It is sometime made to the Shyre-reeve, the example whereof you have there next following.

Pro indiviso, is a possession, and occupation of lands, or tenements belonging unto two or more persons, whereof none knoweth his severall portion, as Coparceners before partition. *Bracton lib. 5. tracta. 2. cap. pri. m. 7.*

Prolocutor of the Convocation house (*prolocutor domus convocationis*) is an officer chosen by persons Ecclesiasticall publikely assembled by the Kings writ at every parliament. And as there be two houses of Convocation, so bee there two prolocutors, one of the higher house, the other of the lower house, who presently upon the first assembly, is by the motion of the Bishops, chosen by the lower house, and presented to the Bishops for their prolocutour, that is, the man by whom they meane to deliver their resolutions to the higher house, and to have their owne house especially ordered and governed. His office is to cause the Clerke to call the names of such as are of that house, when he sees cause, to cause all things propounded to be read by him, to gather the Suffrages, and such like.

Promoters (*promotores*) be those which in popular and penall actions do deferre the names, or complaine of offenders, having part of the profit for their reward. These were called among the Romanes, *Quadruplatores*, or *Delatores*. They belong especially to the Exchequer and the Kings bench. *Smith de Repub. Anglo. li. 2. c. 14.*

Pro patribus liberandis, is a writ for the partition of lands between co-heires, *Register originall, fol. 316.*

Prophecies (*prophetie*) bee in our common law, taken for wisely foretellings of matters to come, in certaine hidden and enigmaticall speeches. Wherby it falleth out many times, that great troubles are stirred in our common-wealth, and great attempts made by those, to whom the speech framed, either by the description of his cognisance, armes, or some other qualitie, promisseth good successe, *anno 3. Ed. 6. cap. 15. & anno 7. ejusdem cap. 11. & anno 5. Elizab. ca. 15.* But these for distinctions sake are called false, or phantastickall prophecies.

Propertie (*proprietas*) signifieth the highest right that a man hath or can have to any thing, which is no way depending upon any other mans courtesie. And this none in our Kingdome can bee said

said to have in any lands. or tenements, but onely the King in the right of his Crowne. Because all the lands through the realm, are in the nature of fee, and doe hold either mediately or immediately of the Crowne. See *Fee*. This word neverthelesse, is in our common law used for that right in lands and tenements, that common persons have, because it importeth as much, as (*utile dominium*) though not (*directum*.)

Proprietate probandi, is a writ. See the *originall Regist. fol. 83. a. & 85. b.* It lyeth for him, that will prove a propertie before the Shyrevee. *Brooks Propertie. 1.* For where a propertie is alledged, a replegiare lyeth not. *Idem ibidem.*

Proprietarie (*propriarius*) is he that hath a propertie in any thing, but is most notoriously used for him, that hath the fruits of a benefice, to himselfe and his heires or successors, as in time past Abbots and Priors had to them and their successors. See *Appropriation.*

Prorata portionis. See *Overando pro rata portionis.*

Protection (*protectio*) hath a generall and speciall signification. In the generall it is used for that benefice and safecie, that every subject or Denizen, or alien specially secured, hath by the

Kings lawes. And thus it is used, *anno 25. Edw. tertii. capite 22.* Protection in the speciall signification is used for an exemption, or an immunitie given by the King to a person against suites in law, or other vexations upon reasonable causes him thereunto mooving, which I take to be a branch of his prerogative. And of this protection, *Fitzb. maketh two sorts in his nat. br. fol. 28.* The first forme or sort he calleth a protection, *cum clausula volumus*, whereof he mentioneth foure particulars. A protection, *quia profecturum*, for him that is to passe over sea in the Kings service: A protection *quia moratur*, for him that is abroad in the Kings service upon the sea, or in the marches, *anno 7. H. 7. cap. 2.* A protection for the Kings debtor, that he be not siewed or attached untill the King be payed his debt. See *anno 15. Edw. 3.* This some Civilians call *moratorium*: which see *In singularibus Marante, verb. Princeps. p. 79. col. 2.* And a protection in the Kings service beyond the seas, or on the marches of Scotland: whereof you may reade something, *anno 1. R. 2. cap. 8.* See the *Regist. orig. fol. 23.* and *Britton. ca. 123.* The second forme of protection is termed *cum clausula, Nolumus*: which is graunted most commonly

monly to a spirituall company for their immunity from taking of their catell by the Kings ministers. But it may be granted also to one man spirituall or temporall. Of these things read the same author and the forms of these writs. See also in the *Register Originall fol. 22. & 23.* And see the new exposition of law termes, to what action the Kings protection doth not extend. See also the new booke of Entries, *verbo protection.*

Protonotarie, (*protonotarius*) See *Prænotary*.

Protestant (*protestatio*) is (as *Justice Walsb* defineth it) a defence of safeguard to the partie, which maketh it from being concluded by the act he is about to doe, that issue cannot be joyned upon it. *Plowden fol. 276. b.* whereof see the *Register originall fol. 306. b.* And see *Protest.*

Protest, (*protestari*) hath two divers applications, one is by way of cautell, to call witnesse (as it were) or openly to affirm, that he doth either not at all, or but after a sort yeeld his consent to any act, as unto proceeding of a Judge in a Court, wherein his Jurisdiction is doubtfull, or to answer upon his oath farther than he by law is bound. See *Plowden. casu Grobroke. fol. 276. b.* and the *Register Originall fo.*

306. b. Another is by way of complaint to protest a mans bill: For example, if I give money to merchant in *France*, taking his bill of exchange to be repayed in *England*, by one to whom hee assigneth me, if at my coming I finde not my selfe satisfied to my contentment, but either delayed or denyed: then I go into the burse or some open concourse of Merchants, and protest that I am deceived by him. And thereupon if he have any goods remaining in any mans hands within the Realme, the Law of Merchants is, that I be payd out of them.

Prover (*Probator*) See *Appraiser*, anno 5. H. 4. ca. 2. See *Appraiser*.

Province (*Provincia*) was used among the Romans for a Country without the compasse of *Italie*, gained to their subjection by the sword, whereupon the part of *France* next the *Alpes* was so called of them, when it was in their dominion, and of that carrieth the same name at this present: But with us a province is most usually taken for the circuit of an Archbishops Jurisdiction, as the Province of *Eanterbury*, and the Province of *Torke*. anno 32. H. 8. ca. 23. & anno 33. ejusd.

dem, cap. 31. yet it is used divers times in our statutes for severall parts of the Realme.

Provinciall (*provincialis*) is a chiefe governour of an order of Friers, anno *quar. Henr. quar. cap. 17.*

Protoforrestarius, was he whom the ancient Kings of this Realme made chiefe of Windsor Forest, to heare all causes of death, or mayhem, or of slaughter, or of the Kings Deere within the Forrest. *Camden Brit. pag. 213.* See *Justice of the Forest*.

Prove. See *profe.*

Provision (*provisio*) is used with us, as it is used in the Canon law, for the providing of a Bishop, or any other person of an Ecclesiasticall living, by the Pope, before the Incumbent be dead. It is also called *gratis expectativa*, or *Mandatum de providendo*. The great abuse whereof in the Pope through all Christendome heretofore, you may read, not onely in *Duarenus de sacris ecclesie ministeriis, & beneficiis*, l. 3. c. 2. but also for England particularly, in divers statutes of the Realme, viz. anno 25. Ed. 3. ca. 22. stat. 4. & statu. 5. commonly called the statute *de provisionibus*. & anno 27. ejusdem, ca. 1. & anno 38. ejusdem stat. 2. cap. pri. & 2. 3. 4. & anno 38. ejusdem, & anno 2. Rich. 2. cap. 7.

& anno 3. ejusdem cap. 3. & anno 7. ejusdem, cap. 12. & anno 12. ejusdem, cap. 15. & anno 13. ejusdem stat. 2. cap. 2, & 3. & anno 16. ejusdem cap. 5. & anno 2. Henr. 4. cap. 3, & 4. & anno 5. ejusdem, cap. prim. & anno 7. ejusdem, cap. 6. & 8. & anno 9. ejusdem, cap. 8. & anno 3. Henr. 5. cap. quar. See *premunice*.

Provisor (*Provisor*) is he that sieweth to the court of Rome for a provision, *old. nat. br. fol. 143.* See *Provision*.

Proviso, is a condition inserted into any deed, upon the observance whereof the validity of the deed consisteth, which forme of condition seemeth to be borrowed from France, for (*Pourvein Gallicum semper conditionem inducit*. *Tiraquel. tome 3. pag. 216.* Our common Lawyers say, that it sometime signifieth but a covenant, whereof you have a large dispute in the second Book of Sir Edward Cookes Reports in the Lord Cromels case. It hath also another signification in matters Judiciall: as if the plantiffe or demandant desist in prosecuting an action, by bringing it to a triall, the defendant, or tenant may take out the *venire facias* to the Shyreve: which hath in it these words, *Proviso quod*, &c. to this end, that if the plantiffe

use take out any writ to that purpose, the Sherif shall summon but one jury upon them both. See old *Natura brev.* in the writ *Nisi prius*, fo. 159.

Purchas, see *Pourchas*.

Purples of a womans gown, anno 33 H. 8. ca. 5.

Purgation (*purgatio*) is a clearing of a mans selfe from a crime, whereof he is probably and publiquely suspected, and thereof denounced to a Judge. Of this there was great use in England touching matters of Felony imputed to Clearks in former time, as appeareth by *Stamf. pl. Cor. li. 2, cap. 48.* See *Clergy*. It is still observed for matter pertaining to the ecclesiasticall Court, as suspicion, or common fame of incontinencie, or such like. Purgation is either Canonick (*canonica*) or vulgar (*vulgaris*). Canonick is that which as prescribed by the Canon law: The forme wherof is usually in the spirituall court, the man suspected taking his oath that he is cleare of the fault objected, and bringing so many of his honest neighbours, being not above twelve, as the court shall assigne him, to sweare upon their consciences and credulitie, that hee sweareth truely, or hath taken a true oath. Vulgar purgation was by fire or water, or by combat, used by infidels

and Christians also, untill by the Canon law it was abolished, *tit. 15, de purgatione Canon. & vulga. in Decretalibus*. Combat, though it bee lesse in use than it was, yet is it, and may be stil practised by the lawes of the Realme, in cases doubtfull, if the Defendant chuse rather the combat than other triall. See *Ordell*. See *Combat*.

Purlue, is all that ground neere any Forest, which being made Forest by Henry the second, Richard the first, or king John, were by perambulations granted by Henry the third; severed againe from the same. *Mannood parte 2* of his Forest lawes, ca. 20. And he calleth this ground either *pauralee*, i. *perambulationem*, or *purlue*, or *pulue*, which hee saith bee but abusively taken for *pauralee*, *ubi supra*, num. 3. But with the licence of that industrious and learned gentleman, I am bold to say, that this word may be no lesse fitly made of two French words, (*pur*, i. *purum*) and (*lieu*, id est *locus*) and my reason is, because that such grounds as were by thoe kings subjected to the Lawes and ordinances of the Forest, are now cleared and freed from the same: for as the Civilians call that *purum locum*, *qui sepulchrorum religioni non est obstrictus*: *sect. 9. de rerum divis. institution.*

so, no doubt, in imitation of that very point. Our auncestors called this *purlieu*, i. *purum locum*, because it was exempted from that servitude or thraldome that was formerly layd upon it. So, *ager purus est, qui neque sacer, neque sanctus, neque religiosus, sed ab omnibus huiusmodi nominibus vacare videtur, lib. 2, sect. 4, π, de religio. & sumptibus funerum.* And therefore Master *Crompton*: *Purraile* is not much amisse, *fo. 153*, of his Jurisdiction. because we may also derive it from the French words *pur* and *allee*, that is as much to say, as a cleere or a free walke or passage. And where it is sometime called *Pourallee*, that may and doth come from *pur*, and *allee*, i. *itio, profectio, ambulatio*: because he that walketh or courseth within that compassse, is cleare enough from the Lawes or penalties incurred by them which hunt within the precincts of the Forest. See the Statute, *anno 33 Edw. prim. stat. 5.*

Pourlie man, is hee that hath ground within the purlieu, and being able to dispend fortie shillings by the yeare of Freehold, is upon these two points licensed to hunt in his owne purlieu: "*Mannwood, parte 1. of his Forest lawes, pag. 151 and 157.* but what observations he must use in his hunting, see him, *pag. 180, 181, 186.* See him likewise, *par-*

te 2. ca. 20, num. 5, 8, 9, &c. See Furlieu.

Purpresture, See *Purpresture*.

Pursey, *anno 43 Elizab. cap. 10.*

Pursuivant, See *Poursuivant*.

Parveyours, See *Pourveyours*.

Pyker, alias *Pycar*, a kinde of ship: *anno 31 Edw. 3, stat. 2, cap. 2.*

Q

Quadragesima, is the first Sunday in Lent, so called (as I take it) because it is the fourtieth day before Easter. The Sunday before that is *Quinquagesima*: the second before, *Sexagesima*; the third *septuagesima*.

Que plura is a writ that lyeth where an inquisition hath beene made by an Escheatour in any county, of such lands or tenements as any man died seised of, and all that was in his possession bee not thought to be found by the office. The forme whereof see in the *Register original, fo. 293*, and in *Fitz. Nat. br. fo. 255.* It differeth from the writ called *melius inquirendo*, as *Fitz.* there sayth, because this is granted, where the Escheator formerly proceeded by vertue of his office: and the other, where he found the first office by ver-

ture of the writ called *Diem clausit extremum*. See the newe Booke of Entries, verbo *Qua plura*.

Quarens non invenit plagium, is a returne made by the Sheriffe, upon a writ directed unto him, with this condition inserted: *Si A. fecerit B. securum de loquela sua prosequenda, &c.* Fitzherb. Nat. Brev. fol. 38.

Qua servitia is a writ. See per *qua servitia*.

Quale jus is a writ judicial that lieth where a man of religion hath judgement to recover land, before execution be made of the judgement, for this writ must be between Judgement & execution, goe forth to the Escheator, to enquire whether the religious person hath right to recover, or the judgement is obtained by collusion betweene the Demaundant and the Tenant, to the intent that the true Lord bee not defrauded. See *Westm. 2, cam. 32, Cam Viri religiosi, &c.* The forme of this writ you may have in the Register judiciall, fol. 8, 16, 17, & 46. And in the old nat. br. fol. 161. See the new booke of Entries, verbo *Quale jus*.

Quare eiecit infra terminum, is a writ that lieth for a Lessee, in case where hee is cast out of his Ferme before his terme be expired, against the Feoffee or leas-

sour that ejecteth him. And it differeth from the *Ejectione firma*, because this lieth where the leassor after the lease made infeofeth another, which ejecteth the lessee. And the *Ejectione firma* lieth against any other stranger that ejecteth him. The effect of both is all one, and that is, to recover the residue of the terme. See *Fitzh. nat. brev. fo. 197*. See the Register originall, fo. 227. And the new booke of Entries, verbo, *Quare eiecit infra terminum*.

Quare impedit is a writ that lieth for him who hath purchased a mannour, with an advowson thereunto belonging, against him that disturbeth him in the right of his advowson, by presenting a Clerke thereunto when the Church is voyd. And it differeth from the writ called *Assisa ultima presentationis*; because that lieth where a man or his ancestors formerly presented, and this for him that is the purchaser himselfe. See the Exposition of the Termes of the Law, and Old nat. brev. fo. 27. *Bracton, lib. 4, tractat. 2, ca. 6.* *Britton, ca. 92.* and *Fitzh. nat. brev. fol. 32.* and the Register originall, fo. 30. where it is sayd, That a *Quare impedit* is of a higher nature than *Assisa ultima presentationis*, because it supposeth both a possession and a right. See at large

the new booke of Entries, *verbo Quare impedit.*

Quare incumbavit, is a writ that lieth against the Bishoppe, which within fixe moneths after the vacation of a Benefice, conferreth it upon his Clarke, whilest two others bee contending in law for the right of presenting. Exposition of the Terms of law, *old nat. br. fo. 30.* and *Fitzb. nat. br. fo. 48. Register origin. fo. 32.*

Quare intrusus matrimonio non satisfacto, is a writ that lieth for the Lord against his Tenant beeing his Ward, that after covenantable marriage offered him, marrieth another, and entreth nevertheless upon his Land, without agreement first made with his Lord and Gardian. Terms of the Law.

Quare non permittit, is a writ that lieth for one that hath right to present for a turn against the Proprietary. *Fleta, lib. 5, ca. 16.*

Quarentine (*quarentina*) is a benefit allowed by the law of England, to the widow of a landed man deceased, whereby she may challenge to continue in his capitall messuage or chiefe Mansion house by the space of forty dayes after his decease. Of this see *Bracton, lib. 2, ca. 40.* And if the heire or any other attempt to eject her, she may have the writ *De Quare-*

rentina habenda, *Fitzb. nat. brev. fo. 161.* See *anno 9 H. 3, ca. 7.* and *anno 20, ca. 1.* and *Briton, ca. 103, m.* *Skene de verborum significatione, verbo Quarentina viduarum*, deriveth this word from the French *quarisme*. Who also have this custome called *lo quarisme des vesues* granted to widowes after the decease of their husbands: as hee prooveth out of *Papen* in his Arrests, *li. 15, titulo des dots. cap. 7,* and *li. 10, tit. Substitutiones, ca. 30.* Of this reade *Fleta* also, *lib. 5, ca. 23.*

Quarentena habenda, is a writ that lieth for a widow to enjoy her *Quarentine*. *Register originali fo. 175.*

Quare non admisit, is a writ that lieth against the Bishop, refusing to admit his Clerke that hath recovered in a plee of *advowson*. The further use whereof see in *Fitz. nat. brev. fo. 47.* and *Register origin. fo. 32.* See the new booke of Entries, *verbo quare non admisit.*

Quare obstruxit, is a writ that lieth for him who having a servitude to passe through his neighbours ground, cannot enjoy his right, for that the owner hath so strengthened it. *Fleta li. 4, ca. 26. sect. Item siminor.*

Quarter Sessions, is a Court held by the Justices of Peace in every County, once every quarter. The jurisdiction whereof

of how farre it exceedeth, is to be learned out of *M. Lamberts Eirenarcha*: Sir Thomas Smith, de *Republ. Angl.* li. 2, ca. 19. But to these you must adde the late statutes of the Realme, for their power daily encreaseth. Originally it seemeth to have been erected only for matters touching the peace. But in these dayes it extendeth much further. That these Sessions should be held quarterly, was first of all ordained (so farre as I can leave) by the statute *anno 25 E. 3 statut. 1, ca. 8.* Of this reade *Lamberts Eirenarcha*, the fourth booke throughout, where hee setteth them out both learnedly and at large.

Quashe (*quassare*) commeth of the French *quasser*, i, *quassare*, *conquassare*. It signifieth in our Common Law, to overthrow: *Bracton lib. 5, tractat. 2. cap. 3, nu. 4.*

Quebord, *anno 17 Edw. 4, ca. 2.*

Que est mesine, signifieth, *verbatim*, Which is the selfe same thing. It is used in our Common law as a word of art in an Action of Trespasse, or of like nature, for a direct justification of the very act complained of by the plaintife as a wrong. For example, in an action of the Case, the plaintife saith that the Lord threatned his Tenants at will in such sort, as hee drave them to

give up their tenures. The Lord for his defence pleadeth, That hee sayd unto them, That if they would not depart, hee would siew them as the law would. This beeing the same threatning that hee used, or to speake artificially *que est le mesine*, the defence is good. Of this see *Kitchin* in the chapter, *que est le mesine*, fol. 236, where you may have many like examples.

Que estate, word for word signifieth, *quem statum*. It signifieth in our common law a plee, whereby a man entituling another to lands, &c. saith, That the same estate that he had, himsele hath from him. For example, in a *quare impedit* the plaintife alledgeth, That such foure persons were seised of lands, wherunto the Advowson in question was appendant in fee, and did present to the Church, and afterward the Church was voyd, *que estat del*, &c. that is, which estate of the foure persons, hee sayth also, that he hath now during the vacation, by vertue whereof he presently, &c. *Brooke titulo Que estate, fo. 175 & 176.* But it is harder to know, when this *Que estate* is to bee pleaded, than to understand what it is, as by him may appeare. See the new book of Entries, *verb. Que estate.*

Queene (*Regina*) is either she that holdeth the Crowne of this Realme

Realme by right of blond, or else she that is married to the King. In the former signification shee is in all construction the same that the King is, and hath the same power in all respects. In the other signification shee is inferiour, and a person exempt from the King: for shee may siew and be siewed in her owne name. Yet that she hath is the Kings, and looke what shee loseth, so much departeth from the king. *Stamf. prarog. ca. 2, fo. 10, in fine.* See *Kirchin fo. 1, b.* See *Cooke li. 4, Copy-hold cases f. 23 b.* *Augusta* was the like among the Romanes, howbeit not *eiusdem juris* in all things.

Quatenus siluer, See *Kings siluer*.

Quem reditum reddat, is a writ judiciall that lieth for him to whom a rent seek or rent charge is graunted by fine levied in the Kings court, against the Tenent of the land, that refuseth to attorne unto him, thereby to cause him to attorne. See *old nat. br. fol. 156.* and *West, parte 2, symbol. titulo Fines, sect. 125.* See the new book of Entries, *verb. quem reditum reddat*.

Querela fiscoe fortie, is a writ. See *Fresforce*.

Querela coram regi & consilio disentienda & terminanda, is a writ whereby one is called to justifie a complaint of a trespasse made to the King and himselfe before the

king and his Councel. *Regist. orig. fo. 124 b.*

Questus est nobis &c. is the form of a writ of Nulance, which by the statute *an. 13 Ed. 1, ca. 24*, lieth against him to whom the house or other thing that breedeth the Nulance, is alienated: wheras before that statute, this action lay onely against him that first levied the thing to the hurt of his neighbor. See the statute.

Quia improvide, seemeth to be a *Superedeas* graunted in the behalfe of a Clarke of the Chauncery, siewed against the privilege of that Court, in the Common plects, and persiewed in the exigend. See *Dyer, f. 337. 18.*

Quid juris clamat, is a writ judiciall, issuing out of the record of the fine, which remaineth with the *Custas breuium* of the Common place, before it be ingrossed (for afterward it cannot be had) and it lieth for the Graunttee of a Reversion or remainder, when the particular tenant will not attorne. *West, parte 2, Symb. tit. Fines, sect. 118.* Whom see further. See the *Register judiciall*, 36, 57. And the new book of Entries, *Verbis Quid juris clamat*.

Quinquagesima Sunday, is alway the next Sabbath before Shrovetide: so called because it is the fivetieth day before Easter.

Easter. The reason of this appellation whoſo deſireth to know, hee may finde divers ſuch as they bee, in *Durandi rationali Divinorum, Capit. de Quinquageſima. Sexageſima Sunday* is the next Sabbath before *Quinquageſima*, ſo called in the opinion of the ſayd Author, becauſe the number of fixty conſiſteth of fixe times tenne: fixe having reference to the fixe workes of mercy, and tenne, to the tenne Commandements. *Septuageſima* is the next before *Sexageſima*, and is inſtituted and ſo called, as *Durand* likewise ſayth, for three things: and (to uſe his owne words) *Primo, propter redemptionem Sabbati, vel ſecundum alios, quinta feris, in qua ſancti patres ſtatuērunt jejunari. Secundo propter representationem, quoniam repræſentat ſeptuaginta annos captivitatis Babylonice. Tertio, propter ſignificationem, quoniam per hoc tempus ſignificatur devotio, exilium, & tribulatio totius humani generis ab Adam uſq; ad finem mundi: quod quidem exilium ſub revolutione ſeptem dierum peragitur, & ſub ſeptem millibus annorum includitur.* But of theſe three dayes you may reade him at large, that have a minde to learne of him. I onely take occaſion to note, what time of the yeare they bee, becauſe I finde them ſpoken of in ou- an-

cient law writers, as *Brit.c. 23*, and ſuch like.

Quite claime (*quiete clamantia, vel quieta clamantia*) is a releaſe or acquitting of a man for any Action that hee hath, or might have againſt him. *Bracton, li. 5, tract. 5, ca. 9, m. 9, lib. 4, tractat. 6, ca. 13. m. prim.*

Quitance (*quietantia*) See *Acquitance*.

Quid pro quo, is an artifi- ciall ſpeech in the Common- Law, ſignifying ſo much as the Greeke *συνάλλαγμα* among the Civilians, which is a mutuall proteſtation or performance of both parties to a Contract; as a horſe and ten pound betweene the buyer and the ſeller. *Kitchin fo. 184.*

Quinſieme (*decima quinta*) is a French word ſignifying a fifteenth. It is uſed in our common Law, for a Taxe layd upon the ſubjects by the Prince, *anno 7 Hen. 7, ca. 5.* So tearmed, becauſe it is raiſed after the fifteenth part of mens lands or goo's. See *Fifteenth*, and *Taxe*. The Fifteenth, as *Crompton* ſayth in his *Jurisdiction. fol. 21*, is levied more commonly in theſe dayes by the yards of land: and yet in ſome places by goods alſo: and note alſo, that he there ſayth, that it is well knowne by the Exchequer Rolle, what every

towne through England is to pay for a fifteenth. Sometime this word *quinsime* is used for the fifteenth day after any feast, as *Quinsime* of Saint John Baptist, anno 13 Edw. prim. cap. 3. & anno decimo octavo, ejusd. capit. prim.

Quod ei deforciat, is a writ that lieth for the Tenent in taile, Tenent in Dower, or tenent for tearme of life, having lost by default, against him that recovered, or against his heire. Exposition of terms. See *Brook hoc tit.* See the Reg. origin. fo. 171. and the new Booke of Entries, verbo *quod ei de forciat*.

Quod permittat, is a writ that lieth for him that is disseised of his Commune of pasture, against the heire of the disseisour beeing dead. Tearmes of the Law. Briton, cap. 8 sayth, That this writ lieth for him, whose auncestour died seised of commune of pasture, or other like thing annexed to his inheritance, against the Deforceour. See *Brook hoc titula*. See the Register origin. fo. 155. and the new booke of Entries, verbo *Quod permittat*.

Quod Clericus non, elegatur in officio ballivi, &c. idest, a writ that lieth for a Clerke, which by reason of some land he hath, is made, or in doubt to be made either Baylife, Bedell, or Reeve,

or some such like officer. See *Clerico infra sacros*, &c. See the Register. orig. fo. 187. Fitzh. nat. br. fol. 175.

Quod Clerici beneficiati de Cancellaria, &c. is a writ to exempt a Clarke of the Chauncery from contribution toward the Proctors of the Clergy in Parliament. Register originall, fol. 261 a.

Quod persona, nec Prebendarii, &c. is a writ that lieth for spirituall persons that are distreined in their spirituall possessions, for the payment of the fifteenth with the rest of the parish. Fitz. nat. br. fo. 176.

Quod non permittat. See *Consuetudinibus & servitiis*.

Quo Jure, is a writ that lieth for him that hath land, wherein another challengeth commune of pasture time out of minde. And it is to compell him to shew by what title hee challengeth this Commune of pasture. Fitzherberts *natura breuium*. fo. 128. Of this see Briton more at large. ca. 59. See the Register. orig. fo. 156. and the new booke of Entries, verbo *Quo jure*.

Quo minus, is a writ that lieth for him that hath a Graunt of House-bote and Heybote, in another mans woods, against the Graunter making such waste, as the Grantee

cannot enjoy his graunt, *old nat. br. fol. 148.* Termes of law: see *Brooke, hoc titulo.* See *Kitchin, fol. 178.b.* This writ also lyeth for the Kings fermer in the Exchequer, against him to whom hee selleth any thing by way of bargaine touching his ferme. *Perkins Graunts. 5.* For hee suppo-
seth, that by the breach of the vendee hee is disabled to pay the King his rent.

Quo warranto, is a writ that lyeth against him, which usurpeth any *Franchis* or liberty against the King, as to have wayfe, stray, faire, market, court Baron, or such like, without good title. *old nat. br. fol. 149.* or else against him that intrudeth himselfe as heire into land. *Bracton, lib. 4. tractat. 1. cap. 2. numb. 3.* See *Brook hoc titulo.* You may read of this also *anno 18. Edm. prim. Stat. 2. & 3. & anno 30. ejusdem.* And the new booke of Entries. *Quo warranto.*

R

R *Acke vintage*, *anno 32. H. 8. c. 14.* is a second vintage or voyage for wines by our Merchants into *France*, &c. For racted wines, that is, wines cledsed and so purged that it may be and is drawne from the leefe. From this voyage our Merchants commonly returne about the end of De-

cember, or beginning of January.

Radknights. See *Roadknights.*

Ran, is a Saxon word, signifying so open a spoiling of a man, that it cannot be denyed. *Lamb. Archan fol. 125.* defineth it thus: *Ran dicitur aperta rapina, qua negari non potest.*

Ransome (*redemptio*) commeth of the French (*rancon*) or (*rencon*) i. *redemptio*. It signifieth properly with us, the summe paid for the redeeming of a Captive: and sometime a great summe of money to bee paid for the pardoning of some hainous crime. *anno pri. H. 4. cap. 7.* Note that when one is to make a fine, and Ransome, the Ransome shall be treble to the Fine. *Cromptons Justice of peace. fol. 142. a.* and *Lamb. Eirenarch. lib. 4. cap. 16. pa. 556.* Horne in his mirrour of Justices, maketh this difference betweene amerciament, and ransome, because ransome is the redemption of a corporall punishment, due by law to any offence. *lib. 3. cap. de amerciament taxable.*

Rape (*rapus vel rapa*) is a part of a county, signifying as much as a Hundred. As *Somerset* is divided into sixe parts, which by a peculiar name are called rapes, viz. the Rape of *Chichester*, of *Arundell*, of *Brember*, of *Lewis*, of *Puensey*, of *Hastings*. *Cambden*

Briton, pag. 225. whom also see pag. 229. These parts are in other places called Tythings, Lathes, or Wapentakes. *Smith de repub. Angl. li. 2, ca. 16.*

Rape (*raptum*) is a felony committed by a man in the violent deflowring of a woman, be she old or young, *Briton ca. 1.* whereof *West parte 2, Symb. titulo Indite-ments, sect. 54*, hath these words, Copulation violent, is tearmed a rape or ravishment of the body of a woman against her will: which is carnall knowledge had of a woman, who never consented thereunto before the fact, nor after. (And this in Scotland ought to be complained of the same day or night that the crime is committed. *Skene, de verborum signifi- catio, verbo raptus.* His reason, *quia lapsu diei hoc crimen prescribitur.*) This offence is with us Felonie in the Principall, and his ayders *anno 11 Hen. 4, cap. 13, anno pri. Edw. 4, ca. 1. West 2, ca. 13.* But *Flara* saith, That the complaint must bee made within forty days, or else the woman may not bee heard, *Lib. 3, ca. 5, sect. preterea.* And carnall knowledge of a woman under ten yeares old, is felony, *Anno 8 Elizabeth, ca. 6.* Thus farre Master *West.* Of the diversity of Rapes, see *Cromp- tons Justice of peace, fol. 43, b. and 44.* See *Ravishment.* The Civile law useth *raptus* in the

same signification. And *rapere vir- ginem vel mulierem, est ei vim inferre & violare. Co. li. de raptu vir- ginis.*

Raptus heredis, is a writ lying for the taking away of an heir holding in Socage: and of this there bee two sorts, one when the heire is married, the other when hee is not. Of both these see the *Regist. origin. fo. 163 b.*

Rastall was a lawyer of reve- rend account that lived in *Queene Maries* dayes, and was a Justice of the Common ples: he gathered the statutes of the land into an abridgement, which carrieth his name at this day. He is also the Authour of the new book of En- tries.

Ratification (*ratificatio*) is u- sed for the confirmation of a Clearke in a Prebend, &c. formerly given him by the Bishop, &c. where the right of patronage is doubted to be in the King. Of this see the *Register originall, fol. 304.*

Rationabili parte bonorum, is a writ that lieth for the wife, a- gainst the Executours of her hus- band, denying her the third part of her husbands goods, after debts and funerall charges de- frayed. *Fitzh. nat. Brev. fo. 222.* Who there citeth the eighteenth Chapter of *Magna Charta*, and *Glanvill*, to prove, that according to the commo law of England, the goods

goods of the deceased, his debts first payd, should be divided into three parts, whercof his wife to have one, his children the second, and the Executours the third. *Fitzherbert* saith also, that this writ lieth as well for the children as for the wife. And the same appeareth by the *Regist. original. fo. 142 b.* I have heard some learned men say, that it hath no use but where the custom of the country serveth forit. See the new book of Entries, *verbo Rationabilis parte*, & *rationabili parte bonorum.*

Rationabilibus divisus, is a writ which lieth in case, where two Lords in divers townes have their seigneuries joynning together, for him that findeth his waste by little and little to have beene encroached upon within memory of man, against the other that hath encroached, thereby to rectifie the bounds of their Seigneuries. In which respect *Fitzherbert* calleth it in his owne nature, a writ of right. The old *natura brevium* sayth also, That this is a Justices, and may be removed by a *pone* out of the County, to the Common bank. See further the forme and use of this writ in *Fitzherberts natura brevium*, fo. 128. and in the *Reg. fo. 157 b.* and the new book of Entries, *verbo rationabilibus divisus*. The Civillians call

this, *Judicium finium regundorum.*

Ravishment (raptus) commeth of the French *ravissement*, i. *direptio, ereptio, raptio, raptus, raptura*; and signifieth in our law, an unlawfull taking away either of a woman, or of an heire in ward. Sometime it is used also in one signification with rape, viz. the violent deflowring of a woman. See *Rape*. And thereupon is the writ called *ravishment de gard*, otherwise called *de herede abducto* lying for the Lord, whose tenent by reason of his tenure in Knights service being his ward, is taken and conveyed from him. See *Fitz. nat. br.* in the writ *De recto de custodia*, fo. 140 f. See also the old *nat. br. fo. 92, 93, & 94.* See the new booke of Entries, *verb. Rape, & ravishment de gard.*

Rawe, an. 4 Ed. 4, ca. 1.

Rawnge, commeth of the French (*ranger*, i. *asistere, ordinare*, or else the substantive *rang*, i. *ordo, series*.) It is used in our common law both as a verbe (as, to raunge) and also as a substantive (as to make rawnge) *Charta de Foresta, ca. 6.* The word is appropriated to the Forest, signifying the office of the Rawnger. The Rawnger is a sworne officer of the Forest, of which sort there seem to be twelve, *Charta de foresta ca. 7*, whose authority is partly declared in his oath, set downe

by *M. Mauwood parte pri. of his Forest limes*, page 50. in these words. You shall truly execute the office of a Rawnger in the Purluise of B. upon the borders of the Kings Forest of W. you shall rechafe and with your hound drive back againe the wild bealts of the Forest as often as they shall raunge out of the same Forest into your Purlieuſe. You shall truly preſent all unlawfull hunting, and hunters of wild bealts and venery, as well within the purlieuſe, as within the Forest. And theſe and all other offences you ſhall preſent at the Kings next court of Attachments, or Swainmore, which ſhall firſt happen, ſo helpe you God, but the ſame author ſetteth down his office more particularly in his ſecond part, *cap. 20. num. 15. 16. & 17.* The ſumme whereof is this. A Raunger is an officer of the Forest, or to the Forest, but not within the Forest, having no charge of vert, but only of veniſon that commeth out of the Forest into his charge, or part of the pourallee, to ſafe conduct them back againe. And therefore in thoſe Forests that have no pourallees, there be no Rawngers, but Foreſters ſerve the turne. This Raunger is made and appointed by the King his Letters-parents under the great ſeale, and for

his better encouragement in his duty, hee hath a yearly fee of twenty pound or thirty pound payd out of the Exchequer, and certaine fee Deere both red and fallow. His office conſiſteth chiefly in theſe three points, *ad perambulandum quotidie per terras de afforeſtatis, ad videndum, audiendum et inquirendū, tam de malefactoribus, quam de malefactoribus in balliva ſuis : ad reſugandum ſeras foreſte tam veneris quam chaſee de terris de afforeſtatis, in terras afforeſtatas : & ad preſentandum omnes transgreſſiones Foreſte in terris de afforeſtatis factas, ad proximas curias illius foreſte tentas.*

Ranſom, ſee *Rauſom*.

Ray ſeemeth to be a word attributed to cloath never coloured or dyed, *v. an. 11 H. 4, ca. 6.*

Realty, ſee *Royalty*.

Reasonable ayd (*rationabile auxilium*) is a duty that the Lord of the fee claimeth of his tenants holding by Knights ſervice or in ſocage, to marry his daughter, or to make his ſonne Knight. *West 1, ca. 39.* See *Ayd*. See *Brooke*, title *Reasonable ayd*.

Reattachment (*Reattachiamen-tum*) is a ſecond attachment of him that was formerly attached, and diſmiſſed the Court without day, as by the not coming of the Juſtices, or ſome ſuch like caſualtie. *Brook ſit. Reattachment* : where hee maketh a

Reat-

Reattachment generall, and a Reattachment speciall. Re-attachment generall seemeth to be, where a man is reattached for his appearance upon all writs of assise lying against him. *Brooke codem. num. 14.* Then speciall must be for one or more certaine, Register judicall, *fo. 35.* See the new booke of Entries, *verbo Reattachment.*

Rebellion, (*rebellio*) is a French word, signifying the taking up of armes against the King or present Estate. This French commeth from the Latine (*rebellio*) which signifieth a second resistance of such as being formerly overcome in battell by the Romanes, yeelded themselves to their subjection. The French men and wee use it generally for the traiterous taking up of armes against the estate, be it by naturall subjects, or by others formerly subdued. Reade more of this, *lib. 3 Feudorum, ca. 61.* and *Hotoman* upon the same Chapter. See the Writ of rebellion. *Rebell* is sometime attributed to him that wilfully breaketh a law, *anno 25 Edw. 3, ca. 6.* and *anno 31 ejusdem, stat. 3, ca. 2.* Sometime to a Villein disobeying his Lord : *an. 1 R. 2, c. 6.*

Rebellious assembly, is a gathering together of twelve persons or more, intending or going about, practising or putting in ure

unlawfully of their owne authority to change any lawes or statutes of this realme, or to destroy the inclosure of any Parke or ground inclosed, or bankes of any fishponds, pool, or conduit, to the intent the same shall remaine voyd, or to the entent unlawfully to have Common, or way in any of the sayd grounds, or to destroy the Deere in any Parke, or any Warren of Conies, or Dove-houses, or fish in any ponds or any house, barnes, Mills, or bayes, or to burne stacks of corne, or to abate rents, or prices of victuals, *an. pri. Mar. 12. & anno 1. Eliz. cap. 17.* See *West. parte 2. symb. titulo Inditem. Sect. 65.* And *Crompt. Justice of peace. fo. 41. b.*

Rebutter, commeth of the French (*Bouter* i. *pellere*, *impellere*, *propellere*, *intrudere*) and signifieth in our common law the same thing. For example, a man giveth land to him and the issue of his body, to another in Fee with warrantie. And the *Donnee* leaseth out his land to a third for yeeres. The heire of the Donour impleadeth the Tenant, alledging that the land was in taile to him. The *Donee* commeth in, and by vertue of the warrantie made by the Donour, repelleth the heire; because though the land were intailed to him, yet he is heire to the warrantee like-
wife;

wife : and this is called a Rebutter. See *Brooke, titulo barre, num. 13.* And againe, if I grant to my tenant to hold *sine impetitione vassii*, and afterward I implead him for waste made, he may debarre me of this action, by shewing my grant. And this is likewise a Rebutter, *idem eodem num. 25.* See the new book of Entries, *verba Rebutter.*

Reuant, an. 32 H. 8, ca. 2.

Recaption (recaptio) signifieth a second distresse of one formerly distreined for the selfe same cause, and also during the plee grounded upon the former distresse. It likewise signifieth a writ lying for the party thus distreined, the forme and further use whereof you may see in *Fitz. nat. br. fo. 71.* and the *Regist. orig. fo. 86.* and the *Register. Judiciall, fo. 69.* and the new booke of Entries, *verb. Recaption.*

Receyver (receptor, or receptator) generally and indefinitely used, is as with the Civilians, so also with us, used commonly in the evill part, for such as receive stollen goods from theeves, and conceale them, *li. 1. c. de receptatoribus.* But annexed to other words, as the receiver of rents, &c. it signifieth many times an officer of great account, belonging to the King, or other great personage. *Cromptons Jurisdic. fol. 18.* There is also an Officer

called the Receiver of Fines, who receiueth the money of all such as compound with the King in the office of the Finances, for the buying of any lands or tenements holden in *Capite.* *West parte 2, symb. titulo Fines, sect. 106.* Receiver of all offices accountable, *an. 1 Ed. 4, ca. 1.*

Receiver generall of the Duchy of Lancaster, is an office belonging to the Duchy Court, that gathereth in all the revenues and fines of the lands of the said Duchy, and of all forfeitures and assessments, or what else is thence to be received.

Receiver generall of the Court of Wards and Liveries, is an Officer belonging to that Court, that is to receive all rents, revenues, and fines of the lands belonging to his Majesties Wards, as also the fines for licences to the Kings widowes to marry, of *ouster le maine* sued out : and for ideots and lunatickes land, and finally all other profits whatsoever, in money arising to his Majestie out of, or by reason of the court of Wards and liveries.

Receiver generall of the Munster Rolles, anno 35 Elizabeth. *ca. 4.*

Receiver generall of the Duchy of Lancaster, of the Wards and liveries, anno 39 Elizabeth. *ca. 7.*

Receyt, See Resceit.

Refuse,

Recluse (*Reclusus*) is he, that by reason of his order in religion; may not stire out of his house or cloyster. *Littleton fol. 92.*

Recognisance (*Recognitio*) cometh of the French (*Recognisance*. *R. ignitio*, *recognitio*) and in our common law is thus defined: A *Recognisance* is a bond of record, testifying the recognizour to owe unto the recognizee a certaine summe of money, and is knowledged in some Court of Record, or before some Judge, or other officer of such Court, having authority to take the same: as the Masters of the Chauncerie, the Judges of either Bench, Barons of the Exchequer, Justices of peace, &c. And those that be meere *Recognisances* are not sealed, but inrolled. And execution by force thereof is of all the recognisours goods, and charels, except his draught beasts, and implements of husbandry, and of the moitie of his lands. *West. parte prim. symb. lib. 2. titulo Recognisances, sect. 149.* And of these you may see their great diversitie of presidents.

Note farther, that a *Recognizance*, though in the speciall signification, it doe but acknowledge a certaine debt, and is executed upon all the

goods, and halfe the lands of the recognisour: yet by extention it is drawne also to the Bonds, commonly called *Statute Merchant*, and *Statute of the Staple*: as appeareth by the *Register originall, fol. 146. 151, & 252.* and by *West, ubi supra*, and others. See *Statute Merchant*, and *Statute Staple*.

Recognisance hath yet another signification, as appeareth by these words in the *Statute, West. 1. cap. 36. anno 3. Edw. 1.* It is provided also, and agreed, that if any man be attainted of disseisin done in the time of our King that now is, with robbery of any manner of goods, or moveables, by *recognisance of Assise of novel disseisin*, the judgement shall, &c. In which place it is used for the verdict of the twelve men empaneled upon an *Assise*, which twelve are also called *recognitours of the Assise*. *Littleton, fol. 72.* So also *Bracton* calleth them, *lib. 5. tractat. 2. cap. 9. num. 2.* in these words: *In essioio vero reddendo exigentur omnes illi, quos causa tetigerit: sicut participes, Warrantum, & alij ut supra: Recognitores in Assis, Juratores in Jursis, Inquisitores inquisitionibus, &c.* And againe, *lib. 3. tract. 1. cap. 11. num. 16.* See the *Statute anno 20. Ed. prim. stat. 4.* See the new book of Entries, *vir. recognisance.*

Recognitione adnullanda per vim & duritiem facta, is a writ to the Justices of the Common Bench, for the sending of a record, touching a recognisance, which the Recognisour suggesteth to bee acknowledged by force and hard dealing, that if it so appeare, it may be disannulled, *Register originall, folio 183. a. b.*

Recognitors (recognitores) is a word used for the Jury empaneled upon an assise. The reason why they bee so called, may be, because they acknowledge a disseisin by their verdict. See *Bracton, lib. 5. tract. 2. cap. 9. num. 2. & lib. 3. tract. prim. cap. 11. num. 16.*

Record, (recordum) commeth of the Latine (*recordari.*) The word is both French and English, and in both tongues signifieth an authentick or uncontrollable testimonie in writing, *Britton, cap. 27. and Lamb. Eirenarch, lib. 1. cap. 13.* In the Grand Customary of *Normandy*, there are severall Chapters of divers Records, expressing whose presence in each of the Courts, is sufficient to make that which is enacted to be a record, *viz. the 102. Chapter*, where you have words to this effect. The record of the Kings Court, is a record of things done before the King. All things done before the King,

so hee have one other witnesse. This record may he and other make: if hee himselfe will not make it, it may bee made by three others. And his person may not be impeached (or excepted against) either in this or any other thing. The next chapter, *viz. the 103.* sheweth how many persons suffice to make a Record in the Exchequer. The next how many in an assise, &c.

I finde not that wee in our Courts, (especially the Kings Courts) stand much upon the numbers of Recorders or witnesses for the strength of the testimony which the Record worketh: but that wee take it sufficient which is registred in each Court. *Glanvile, lib. 8. cap. 8. Bracton, lib. 3. tract. 2. cap. 37. num. 4. Britton* in the Proeme of his booke saith, that the Justices of the Kings Bench have a Record, the Coroner, Vicount, Justices of the Exchequer, Justices of Goale delivery, the Steward of England, Justices of Ireland, Justices of Chester, Justices assigned by the Kings letters patents, in those causes they have commission to take knowledge of. All which (as I take it) must be understood with that caveat of *Brooke, titulo (Record) num. 20. & 21.* that an act committed to writing in any of the Kings Courts,

Courts, during the terme where-
in it is written, is alterable, and
no record : but that terme once
ended : and the said act duly en-
rolled, it is a record, and of that
credit, that admitteth no altera-
tion, or prooffe to the contrarie.
Yet see Sir *Edw. Cookes Reports*
lib. 4. Rawlins case. fol. 52. b. an.
12. Ed. 2. cap. 4. It is said, that
two Justices of either Bench have
power to record Non suites, and
Defaults in the Countrey. It ap-
peareth by *Bracton, lib. 5. tract.*
2. ca. 1. & 11. that *quatuor milites*
babent recordum, being sent to
view a partie effoined *de malo*
lecti, and *lib. 5. tract. 1. cap. 4. un.*
2. that *Serviens Hundredi habet*
recordum in testimonio proborum
hominum. And in the Statute of
Carleil, made *anno 15. Ed. 2.* it is
said, that one Justice of either
Bench, with an Abbot or a Prior,
or a Knight, or a man of good
fame and credence, hath a re-
cord in the view of one that is
said by reason of sicknesse, to be
unable to appeare personally for
the passing of a fine. And *anno*
13. H. 4. cap. 7. & anno 2. H. 5.
cap. 3. that two Justices of peace,
with the Shyrevee, or under-
shyrevee have power to record,
what they finde done by any in
a ryot, or rout, &c.

That which is before mentio-
ned out of *Britton* touching the
Shyrevee, seemeth to be limited

by *Fitzb. nat. br. fol. 81. D.* Who
alloweth him a Record in such
matters onely, as he is commaun-
ded to execute by the Kings
writ, in respect of his office. And
thence it commeth that *Kitchin*
fol. 177. saith, that the Eschea-
tour, and Shyrevee, be not Justi-
ces of record, but officers of re-
cord. In which words he signifi-
eth, that their testimony is au-
thenticall onely in some certaine
things that are expressely injoynd
them by vertue of their Com-
mission, as ministers to the King
in his higher Courts, whereas
Justices of record have in genera-
litie a record for all things with-
in their cognisance done before
them as Judges, though not ex-
pressely or particularly commaun-
ded. *Fitzb.* in his *Nat. br. fol. 82.*
in principio, something expla-
neth this point, writing to this
effect : Every act that the Shy-
reeve doth by vertue of his com-
mission, ought to be taken as
matter of record, no lesse than the
Justices of peace. His reasons be
two : the former, because his pa-
tentis of record : the other, be-
cause he is a conservatour of the
peace. And then he addeth, that
the ples held before him in his
Countie be not of record. Yet
is the countie called a Court of
record. *Westm. 2. cap. 3. anno 13.*
Ed. 1. But it seemeth by *Britton*,
cap. 27. that it is onely in these

causes, whereof the Shyreewe holdeth plee by especiall writ; and not those that hee holdeth of course or custome. And in that case also it may be gathered out of the same authour, that he hath a record, but with the testimony of those annexed, that be suitors to the Court. Which seemeth to agree with *Bractons* words above specified. *Serviens Hundredi habet recordum in testimonio proborum bonorum.* And to this purpose read *Glanvile. l. 8. c. 8; 9. & 10.* One Justice upon view of forcible detinew of land, may record the same by statute. *anno 15. R. 2. cap. 2.* the Major, and Constables of the Staple, have power to record Recognisances of debt taken before them. *anno 10. H. 6. ca. 1.*

Brooke, titub (Record) seemeth to say, that no court Ecclesiasticall is of record: how truly, it is to be inquired. For Bishops certifying bastardy, bigamy, excommunication, the vacancy or plenarty of a Church, a mariage, a divorce, a spirituall intrusion, or whether a man be professed in any religion, with other such like, are credited without farther enquiry or controlment. See *Brooke, titulo Bastardy.* See *Fleta, lib. 6. cap. 39, 40, 41, 42.* *Lamb. circinarcha, lib. pri. cap. 13.* *Glanvile, lib. 7. cap. 14, & 15.* the Register originall, *fol. 5. b. Bracton, lib. 5.*

tradit. 5. ca. 20. un. 5. Britton, ca. 92. 94. 106, 107, & 109. Doct. and Sand. li. 2. ca. 5. but especially *Cofius apology, parte pri. ca. 21.* And a testament shewed under the seale of the Ordinary is not traversable. *36. H. 6. 31. Perkins Testament, 491. Fulb. paral. fol. 61. b.* But it may be that this opinion groweth from a difference betweene that law, whereby the court Christian is most ordered, and the common Law of this land. For by the civill or canon law no Instrument, or Record is held so firme, but that it may be checked by witnesses able to depose it to be untrue. *Co. plus valere quod agitur quam quod simulate concipitur, ca. cum Johannes 10. extra: de fide instrumentorum.* Whereas in our common Law against a Record of the Kings Court, after the terme wherein it is made, no witnesse can prevaile. *Britton, ca. 109. Coke lib. 4. Hindes case, fol. 71. lib. assisum, fol. 227. nota. 21.* This reconciliation may be justified by *Brooke* himselve, *titulo, Testaments. num. 4. 8. & 14.* and by *Glanvile, lib. 8. cap. 8.*

The King may make a Court of record by his grant. *Glanvil. li. 8. ca. 8. Britton cap. 121.* as for example, *Queene Elizabeth* of worthy memory by her Charter dated, *26. Aprilis, anno 3. regni sui* made the Consistory Court of the

the Universitie of Cambridge a Court of Record.

There are reckoned among our common lawyers three sorts of records: *viz.* A record judiciall, as attainer, &c. A record ministeriall upon oath, as an office found. A record made by conveyance by consent, as a fine, deed enrolled, or such like. *Coke, li. 4. Andrew Ognels case. fo. 54. b.*

Recordare facias, or *recordari facias*, is a writ directed to the Shyreve, to remove a cause depending in an inferiour court, to the Kings bench, or common ples, as out of a court of auncient Demesne, Hundred, or Countie, *Fitz. nat. br. fol. 71. B. out of the countie Court. idem, fo. 46. B. or other courts of record. idem fol. 71. C. & 119. K.* Howbeit, if you will learne more exactly, where, and in what cases this writ lyeth, reade *Brooke* in his *Abridgement*, titulo, *Recordare & pone*. It seemeth to be called a *recordare*, because the forme is such, that it commandeth the Shyreve to whom it is directed, to make a record of the proceeding by himsele, and others, and then to send up the cause. See the *Register*, verbo, *Recordare*, in the Table of the originall Writs. See *Certiorari*. See *Accedas ad Curiam*.

Recorder (*recordator*) commeth

of the French (*recordeur. i. talis persona que in Ducis curia à judicio faciendo non debet amoveri.*) *Grand Custumary of Norm. cap. 107. & 121.* Whereby it appeareth, that those which were necessary Judges in the Duke of Normandies Courts, were called *Recorders*: and who they were, is shewed in the ninth chapter of the said booke. And that they, or the greater part of them, had power to make a record, it is evident in the chapter 107. Here in *England* a Recorder is he, whom the Major or other Magistrate of any Citie, or Towne corporate, having Jurisdiction, or a Court of record within their precincts by the Kings grant, doth associate unto him for his better direction in matters of Justice and proceedings, according unto law. And he is for the most part a man well seene in the common law.

Recordo & processu mittendis, is a writ to call a Record, together with the whole proceeding in the cause out of one Court into the Kings Court. Which see in the Table of the *Register orig.* how diversly it is used.

Recordo utlagaria mittendo, is a writ Judiciall, which see in the *Register judiciall*, fol. 32.

Recovrie (*Recuperatio*) comes of the French *Recoverer. i. Recuperare*. It signifieth in our common

law, an obtaining of any thing by Judgement, or tryall of law. as *evictio* doth among the Civilians. But you must understand, that there is a true recovery and a feigned. A true Recovery is an actual, or reall recovery of any thing, or the value thereof by Judgement: as if a man siewed for any land, or other thing moveable or immoveable, and have a verdict, and Judgement for him. A feigned recovery is (as the Civilians call it) *quodam fictio juris*, a certaine forme, or course set downe by law, to be observed for the better assuring of lands or tenements unto us. And for the better understanding of this, reade *West. parte 2. symbol. titulo Recoverius, sect. pri.* who saith, that the end, and effect of a Recovery, is to discontinue and destroy estates Tayles, Remandels, and Reversions, and to barre the former owners thereof. And in this formalitie there be required 3. parties, *viz.* the Demaundaunt, the Tenent, and the Vowchee. The Demaundant is hee that bringeth the writ of Entry, and may be termed the Recoverer: The Tenent is he, against whom the writ is brought, and may be termed the Recoveeree. The Vowchee is he, whom the tenent vowcheth, or calleth to warrantie for the land in demandaunt.

West. ubi supra. In whom you may reade more touching this matter.

But for example, to explaine this point, a man that is desirous to cut off an estate taile in lands or tenements, to the end, to sell, give, or bequeath it, as himselfe seeth good, useth his friend to bring a writ upon him for this land. Hee appearing to the writ sayth for himselfe, that the land in question came to him, or his auncesters from such a man or his auncester, who in the conveyance thereof, bound himselfe and his heires to make good the title unto him or them to whom it was conveyed. And so he is allowed by the court to call in this third man to say what he can for the justifying of his right to this land, before hee so conveyed it. The third man commeth not: whereupon the land is recovered by him that brought the writ: and the tenent of the land is left for his remedie to the third man that was called and came not in to defend the tenent. And by this meanes the entayle which was made by the tenent, or his Auncester, is cut off by judgement hereupon given: for that he is pretended to have no power to entayle that land, whereunto hee had no just title, as now it appeared: because it

is evicted, or recovered from him.

This kind of recovery is by good opinion, but a snare to deceive the people. *Doct. & Stud. ca. 32. dial. pri. fol. 56. a.* This feigned Recovery is also called a common Recovery: And the reason of that *Epitheton* is, because it is a beaten and common path to that end, for which it is ordeined, *viz.* to cut off the estates above specified. See the new booke of Entries, *verbo. Recovery.*

I said before, that a true recovery is as well of the value, as of the thing: for the better understanding whereof, know, that (in value) signifies as much as (*Illud quod interest*) with the Civilians. For example, if a man buy land of another with warrantie, which land a third person afterward by suite of law recovereth against mee, I have my remedie againſt him that sold it mee, to recover in value, that is, to recover so much in money as the land is worth, or so much other land by way of exchange. *Fitzb. nat. br. fol. 134. K.* To recover a warranty. *Old nat. br. fol. 146.* is to prove by judgement that a man was his warrant against all men for such a thing.

Recto, is a writ called in English, a writ of Right, which is of

so high a nature, that whereas other writs in reall actions, be onely to recover the possession of the land, or tenements in question, which have beene lost by our aunceſter, or our selves, this aymeth to recover both the seisin, which some of our Auncesters, or wee had, and also the propertie of the thing, whereof our Aunceſter died not seised, as of fee: and whereby are pleaded, and tryed both the rights together, *viz.* as well of possession, as propertie. In so much as if a man once lose his cause upon this writ, either by Judgement, by Assise, or battell, he is without all remedie, and shall be excluded (*per exceptionem Rei judicate*) *Bracton lib. 5. tract. 1. cap. 1. & seqq.* where you may reade your fill of this writ.

It is divided into two species: *Rectum patens*, a writ of right patent, and *Rectum clausum*, a writ of right close. This the Civilians call *Judicium patitorum*. The writ of right patent is so called, because it is sent open, and is in nature the highest writ of all other, lying alwayes for him that hath fee simple in the lands, or tenements siewed for, and not for any other. And when it lieth for him that challengeth fee simple, or in what cases. See *Fitzb. nat. br. fol. pri. C.* whom see also *fol. 6.* of a specti.

Speciall writ of right in *London*, otherwise called a writ of right according to the custome of *London*. This writ also is called *Breve magnum de Recto*. Register originall, fol. 9. *A. B.* and *Fleta lib. 5. cap. 32. sect. 12.*

A writ of right close, is a writ directed to a Lord of *ancient Demesne*, and lieth for those which hold their lands and tenements by charter in fee simple, or in fee taile, or for terme of life, or in dower, if they be ejected out of such lands, &c. or disseised. In this case a man or his heire may shew out this writ of Right close directed to the Lord of the *ancient Demesne*, commanding him to do him right, &c. in his court. This is also called a small writ of right. *Breve parvum*, Register originall, fol. 9. *a. b.* and *Briton*, cap. 120. *in fine*. Of this see *Fitzh.* likewise at large. *nat. br. fol. 11. & seqq.*

Yet note that the writ of right patent seemeth farther to be extended in use, then the originall invention served: for a writ of Right of Dower, which lyeth for the tenent in Dower, and onely for terme of life, is patent, as appeareth by *Fitzh. nat. br. fol. 7. &.* The like may be said of divers others that doe hereafter follow. Of these see also the table of the originall Register, verbo *Recto*. This writ is properly tryed in the

Lords Court betweene kinnsmen, that claime by one title from their Auncester. But how it may be thence removed, and brought either to the Countie, or to the Kings court, see *Fleta, lib. 6. cap. 3, 4, & 5.* *Glanville* seemeth to make every writ, whereby a man sheweth for any thing due unto him, a writ of right. *lib. 10. ca. 1. lib. 11. cap. 1. lib. 12. cap. 1.*

Recto de dote, is a writ of Right of Dower, which lyeth for a woman, that hath received part of her Dower, and purposeth to demaund the Remanent in the same Towne, against the heire, or his Gardian, if he be ward. Of this see more in the *Old nat. br. fol. 5.* and *Fitzh. fol. 7. E.* and the Register originall, fol. 3. and the new booke of *Entries, verbo Droyt.*

Recto de dote unde nihil habet, is a writ of right, which lyeth in case, where the husband having divers lands or tenements, hath assured no dower to his wife, and shee thereby is driven to shew for her thirds against the heire or his Gardian, *Old nat. br. folio 6.* Register originall, folio 170.

Recto de rationabili parte, is a writ that lieth alway, betweene privies of bloud, as brothers in *Gavel-kind*, or sisters, or other Coparceners, as Nephewes, or

Nee-

Neece, and for land in Fee simple. For example, if a man lease his land for tearme of life, and afterward dyeth, leaving issue, two daughters, and after that the tenant for terme of life likewise dieth: the one sister entering upon all the land, and so deforcing the other; the sister so deforced, shall have this writ to recover part. *Fitz.nat.br.fol.9. Regist. orig. fol.3.*

Recto quando Dominus remisit is a writ of right, which lyeth in case, where lands or tenements that be in the Seignery of any Lord, are in demand by a writ of right. For if the Lord hold no court, or otherwise at the prayer of the Demandant, or Tenant, shall send to the court of the King his writ, to put the cause thither for that time (saving to him another time the right of his Seignery) then this writ issueth out for the other party, and hath this name from the words therein comprised, being the true occasion thereof. This writ is close, and must be returned before the Justices of the common Banck. *Old nat.br. fol. 16. Register original. fol.4.*

Recto de Advocaria Ecclesie, is a writ of right, lying where a man hath right of Advowzen, & the Parson of the Church dying, a stranger presenteth his Clerke to the Church, and hee not having

moved his action of *Quare impedit*, nor darrein presentment within fixe moneths, but suffered the stranger to usurpe upon him. And this writ he only may have, that claimeth the Advowzen, to himselfe and to his heires in fee. And as it lieth for the whole advowzen: so it lieth also for the halfe, the third, the fourth part. *Old nat.br. fol. 24. Register original. fol.29.*

Recto de custodia terre & heredis, is a writ that lieth for him, whose Tenant holding of him in Chivalry, dieth in his nonage, against a stranger, that entreth upon the land, and taketh the body of the heire. The forme, and farther use whereof see in *Fitz.nat.br. fol.139.* and the *Register original. fol. 161.*

Recto sur disclaimer, is a writ that lyeth, where the Lord in the Kings court, &c. in the common ples, doth avow upon his Tenant, and the Tenant disclaimeth to hold of him, upon the disclaimer he shall have this writ: and if the Lord averre, and prove that the land is holden of him, he shall recover the land for ever. *Old nat.br.fol. 150.* which is grounded upon the statute, *Westm.2.ca.2. anno 13. Ed.pri.* which statute beginneth. *Quia Domini feudorum, &c.*

Rector, is both Latine, and English, signifying a Governour. In

the common law *rector ecclesie parochialis*, is he that hath the charge, or cure of a parish Church: *qui tantum jus in ecclesia parochiali habet, quantum prelatus in ecclesia collegiata. ca. ult. De locat. & Conduct. in gloss. verbo expelli potuissent.* In our common law, I heare that it is lately over-ruled, that *rector ecclesie parochialis* is hee, that hath a personage, where there is a vicarage, endowed: and hee that hath a personage without a vicarage, is called *persona*. But this distinction seemeth to be new and subtile *prerogationem*. I am sure *Bracton* useth it otherwise, *lib. 4. tract. 5. ca. pri. in these words. Et sciendum quod rectoribus ecclesiarum parochialium competit Assisa, qui instituti sunt per Episcopos, & Ordinarios ut persone.* Where it is plaine, that *rector* and *persona* bee confounded. Mark also these words there following: *Item dici possunt rectores Canonici de ecclesiis prebendatis. Item dici possunt rectores, vel quasi, Abbates, Priores & alij, qui habent ecclesie ad proprios usus.*

Rectus in curia, is he that standeth at the barre, and hath no man to object any offence against him. *Smith de repub. Angl. li. 2. c. 3. sec a. 6. R. 2. sta. I. c. 11.*

Reddendum, is used many times substantively for the clause in a

lease, &c. Whereby the rent is reserved to the lessour. *Coke lib. 2. Lord Cromwells case. fol. 72. b.*

Redisseisin (*redisseisina*) is a disseisin made by him, that once before was found, and adjudged to have disseised the same man of his lands, or tenements. For the which there lyeth a speciall writ, called a writ of *redisseisin*. *Old nat. br. fol. 106. Fitz. nat. br. fol. 188.* See the new booke of *Entries. verb. Redisseisin.*

Redisseisina, is a writ lying for a *redisseisin*. *Reg. orig. f. 206, 207.*

Reddicion, is a judicall confession, and acknowledgement that the land or thing in demand belongeth to the demandant, or at the least, not to himselfe. *a. 34. & 35. H. 8. ca. 24. Perkins Dower. 379. 380.*

Redubours, be those that buy cloth, which they know to bee stolen, and turne it into some other forme or fashion. *Britton. ca. 29. Cromptons Vicount. fol. 193. a.*

Reentry, commeth of the French (*rentrer*) i. *rursus intrare*, and signifieth in our common law, the resuming, or taking againe of possession, which wee had earke forgone. For example, if I make a lease, of land, or tenement, I do thereby forgoe the possession, and if I doe condition with the *Leassée*, that for non payment of the rent at the day it shall be lawfull for me to reenter, this

is as much as if I conditioned to take againe the lands, &c. into mine owne hands, and to recover the possession by mine owne fact without the assistance of Judge or proces.

Reere county. See *Rier Cowne*.
9e.

Reextent, is a second extent made upon lands, or tenements, upon complaint made, that the former extent was partially performed. *Brooke, titulo. Extent. fol. 313.*

Regard (*regardum*) is borrowed of the French *Regard*, or *Regardure*. i. *aspectus, conspectus, respectus.* and though it have a generall signification of any care or diligence: yet it hath also a speciall acceptance, and therein is used onely in matters of the Forest: and there two waies: one for the office of the Regarder, the other for the compasse of ground belonging to the Regarders office or charge. *Cromptons Jurisd. fol. 175. 199.* Touching the former, thus saith *M. Manwood*, *parte pri.* of his Forest laws. *pag. 198.* The Eire, generall sessions of the Forest, or Justices seat, is to bee holden, and kept every third yeere: and of necessity before that any such sessions or Justices seat can bee holden, the Regarders of the Forest must make their *Regard*. And this making of the *Regard*

must be done by the Kings writ. And the *Regard* is (as hee afterward there saith) to goe through the whole Forest, and every Bayliwick of the same, to see and enquire of the trespasses of the Forest: which hee compriseth in these 4. viz. *ad videndum, ad inquirendum, ad imbreuiandum, ad certificandum.* Of every of which branches you may reade there his exposition.

Touching the second signification, the compasse of the Regarders charge is the whole Forest, that is, all that ground, which is parcell of the Forest. For there may be Woods within the limits of the Forest, that bee no parcell thereof, and those be without the *Regard*, as the same Author plainly declareth, *parte pri. pag. 194.* and againe *parte 2. cap. 7. nu. 4.* where hee sheweth the difference betwene these words: (*Infra regardum*) or (*Rewardum*) & *infra Forestam.*

Regarder (*Regardator*) commeth of the French (*Regardeur*) id est, *Spectator*) and signifieth an officer of the Forest. *Cromptons Jurisd. fol. 153.* where it is thus defined. A *Regarder* is an officer of the Forest, appointed to surview all other Officers. Hee saith there also, that this Officer was ordeined in the beginning of

King Henry the seconds dayes. *M. Manwood* in his first part of *Forest lawes.* pag. 188. thus defineth him. A Regarder is an officer of the Kings Forest, that is sworne to make the Regard of the Forest, as the same hath bene used to bee made in auncient time. And also to view and inquire of all offences of the Forest, as well of vert as of venison, and of all concealments of any offences or defaults of the Foresters, and of all other officers of the Kings Forest, concerning the execution of their offices. Hee saith there also, that a Regarder may be made either by the Kings letters patents, or by any one of the Kings Iustices of the Forest at his discretion in the generall Eyre, or at such time, as the Regard is to be made, by vertue of the Kings writ, directed to the Shyreewe of the County for that purpose. The forme of which writ hee there setteth downe.

After that, pag. 192. hee setteth downe his Oath in these words. *You shall truly serve our Soveraigne Lord the King in the office of a Regarder in the Forest of Waltham. You shall make the Regard of the same in such manner, as the same hath bene accustomed to bee made. You shall rounge through the whole Forest, and through every*

Bylwinick of the same, as the Foresters there shal leade you to view the said Forest. And if the foresters will not, or doe not know how to leade you, to make the regard or rounge of the Forest, that they will conceale from you any thing that is forfeited to the King; you, your selves shall not let for any thing: but you shall see the same forfeiture, and cause the same to be inrolled in your roll. You shall inquire of all wastes, pourprestures, and Asserts of the Forest, and also of concealments of any offence, or trespasse in the Forest: and all these things you shall to the uttermost of your power doe; So help you GOD. Then you may reade farder the particulars of his office. eadem pag. 195. And pag. 207. he saith, that their presentments must be upon their view, and so recorded, and that the Regarders of themselves have power to heare and determine the fine, or amerciament for expeditating of dogges. See Regard.

Regio assensu, is a writ whereby the King giveth his Royall assent to the election of a Bishop or Abbot. Register orig. fol. 294.b.

Registrum (Registrum) commeth of the French (*Registre. i. liber, librarium, codex ratiocinarius, ephemeris, commentarius*) it signifieth

fieth with us the office, or books, or rolls, wherein are recorded the proceedings of the Chauncerie, or any spirituall Court. The writer and the keeper whereof is called the Register, in Latine, *Registrarius*. Register is also the name of a booke, wherein are expressed all the forms of writs used at the common law, called the Register of the Chancery. *Anno 13. Ed. pri. cap. 24.* Some^e say it is tearmed *Registrum, quasi Regestum. Præteritum.*

Regritor (regrator) cometh of the French (*regratter* i. *desquamare*,) *Regratter quelque vieille robe & la faire neuve*) is to scoure or furbish an old garment and to make it new againe. Also (*regratteur*) signifieth as much as (*Mango*) in Latine: which kind of men sold children, and to sell them the better, *mentendi coloris artem optime callebant. Martialis & Plinius.* This word in our common law, did anciently signifie such as bought by the great, and sold by retayle. *an. 27. Ed. 3. stat. prim. cap. 3.* but now it signifieth him, that buyeth and selleth any wares, or victuals in the same market, or faire, or within five miles thereof. *anno 5. Edw. 6. cap. 14. anno 5. Elizab. cap. 12. anno 13. Eliza. cap. 25.* See *Forestallers* and *Engrossers.*

Rehabere facias seisinam quando Vice comes liberavit seisinam de maiore parte, quam deberet, is a writ Judiciall. *Register Judicial. fol. 13. 51.* There is another writ of this name and nature. *eodem, fol. 54.*

Rejoynder (rejunctio) signifieth in our Common Law, as much as *Duplicatio* with the Civilians, that is, an exception to a replication. For the first answer of the Defendant to the Plaintiffes bill, is called an exception: the Plaintiffes answer to that, is called a Replication: and the Defendants to that, Duplication in the Civill Law, and a Rejoynder with us, especially in Chancery. *West. parte. 2. symb. titulo Chancery sect. 56.* where he citeth these words out of *Spigelius.* *Est autem rejunctio seu duplicatio, vel allegatio, que datur reo ad infirmandum replicationem actoris, & confirmandum exceptionem Rei.*

Relation (relatio) idem quod *fictio juris*, to make a nullity of a thing from the beginning (for a certaine intent) which had effeſſence, *Cook lib. 3 Butler & Baker. fol. 28. b.* which in plainer termes may be thus expounded. Relation is a fiction of the law, whereby something is (for a speciall purpose) imagined never to have beene, which in

truth was. Read the rest.

Release (*Relaxatio*) commeth of the French (*Relasche* i. *cessatio*, *relaxatio*, *laxamentum*) and in our common law is thus defined: A release is an Instrument whereby estates, rights, titles, entries, actions, and other things be sometime extinguish'd, sometime transferred, sometime a-bridged, and sometime enlarged *Westm. parte prim. symbol. lib. 2. sect. 509.* And there is a Release in fact, and a release in Law. *Perkins Gramm. 71.* A release in fact seemeth to be that, which the very words expressly declare. A Release in law is that, which doth acquite by way of consequent, or intendment of Law. An example whereof you have in *Perkins ubi supra.* Of these, how they be available, and how not, see *Littleton at large. li. 3. ca. 8. fol. 94.* of divers sorts of these Releases see the new booke of Entries. *verbo Release.*

Reliefe (*relevium*) commeth of the French *relevier*. i. *relevare*, and signifieth in our common Law, a certaine summe of money, that the tenant holding by Knights service, grand sergeantie, or other tenure, for the which homage or regall service is due, or by soccage, for the which no homage is due, and being at full age at the death of

his auncestour, doth pay unto his Lord at his entrance. *Bracton lib. 2. cap. 36.* giveth a reason why it is called a Reliefe. *viz. quia hereditas, quae iacens fuit per antecessoris decessum, relevatur in manus heredium, & propter factam relevationem, facienda erit ab herede quadam praestatio, quae dicitur Relevium.* Of this you may read *Britton. c. 69.* in a manner to the same effect. Of this also speakes the *Grand Customary of Normandy, cap. 34.* to this effect: It is to be knowne, that the Lord of the fee ought to have reliefe of the Lands, which be held of him by homage, when those die, of whom hee had homage. And that this is not onely proper to us in *Eng. or Normandy*, appeareth by *Hotoman* in his Commentaries, *de verbis feud. verbo Relevium*, who there defineth it thus: *Relevium est honorarium, quod novus vasallus patrono introitus causa largitur, quasi morte vasalli alterius, vel alio quo casu feudum ceciderit: quod jam à novo sublevetur:* and farther speaketh of it, that which is worth the reading, and contains great knowledge of antiquity. See the like definition in *Morante singularibus. verbo Relevium.* For the quantitie of this reliefe, see the *Great charter, cap. 2.* in these words: If any of our Earles or Barons, or any other

our tenants, which hold of us in chiefe by knights service, dye, and at the time of his death his heire is of full age, and oweth to us reliefe, hee shall have inheritance by the old Reliefe: that is to say, the heire, or heires of an Earle for one whole Earldome one hundred pound: the heire or heires of a Baron for one whole Barony, one hundred markes: the heire or heires of a Knight, for one whole Knights fee, one hundred shillings at the most. And hee that hath lesse, shall give lesse, according to the old custome of the fees. Read also *Glanvile lib. 9. cap. 4. fol. 68.* who saith, that in his dayes the Reliefe of a Barony was not certaine. The heire in francke soccage, when hee cometh to his full age, after the death of his auncester, shall double the rent that hee was wont to pay to the Lord, and that shall bee in place of reliefe. *old. nat. br. fol. 94.* Somewhat more hereof you may reade in *anno 28. Ed. prim. statut. prim. and Kitchin fol. 145. ca. Reliefe,* and *Glanvile, lib. 7. cap. 9.* The Feudists also write of this at large. Among others *Vincentius de Franchis descif. 121.* saith, that *Relevij solutio est quadam extrinseca prestatio à consuetudine introducta, qua non uest fendo. quodq; solvitur pro confirmatio-*

ne, seu renovatione investiture & possessionis. See *Heriot.* This *Leo the Emperour Novella 13. calleth* *εἰς δαυμόν.* By the ancienter civile law it is termed *introitus, l. penult. sect. Alumno. π de leguis. Sene de verb. signif.* saith, that Reliefe is a French word, from the Latine *relevare*, which is to relieve or take up that which is fallen. For it is given by the tenant, or vassal being of perfect age, after the expiring of the wardship to his Lord, of whom he holds his land by Knights service, that is, by ward and reliefe; and by payment thereof he relieves, and (as it were) raiseth up againe his lands, after they were fallen downe into his superiours hands by reason of wardship, &c.

Remainder (remanentia) signifieth in our common law, a power or hope to enjoy lands, tenements, or rents after the estate of another expired. For example, a man may let land to one for terme of his life, and the Remainder to another for terme of his life. *Littleton, cap. Attornment, fol. 113.* And this Remainder may be either for a certaine terme, or in fee simple, or fee taile, as might be proved by many places in the law writers. But in stead of the rest, take *Brook, titulo Done & Remainder, fo. 245. Glanvile. li. 7. capri. in fine* hath these words:

Notan.

Notandum quod nec Episcopus, nec Abbas, quia eorum Baronie sunt, de elemosina Dom. Regis & antecessorum ejus, non possunt de Dominicis suis aliquam partem dare ad remanentiam sine assensu & confirmatione Domini Regis.

Where it appeares that *Dare ad remanentiam*, is to give away for ever. To the same effect doth he use it, *cap. 9. ejusdem libri* in these words, speaking of the Lords of Manors during the minoritie of the r wards. *Nihil tamen de hereditate, de jure alienare possunt ad remanentiam.* In the like sort doth Bracton use it, *lib. 2. cap. 23. in fine* and also *lib. 4. tract. 2. c. 4. nu. 4.* See the new book of entries, *verbo Remainder.*

Remembrancers of the Exchequer (*Rememoratores*) be three officers or Clerks, one called the Kings Remembrancer. *anno 35. El. cap. 5.* The other the Lord Treasurers Remembrancer, upon whose charge it seemeth to lye, that they put all Iustices of that court, as the Lord Treasurer and the rest, in remembrance of such things as are to be called on, and dealt in for the Princes behoofe. The third is called the Remembrancer of the first-fruits. Of these you may reade something *anno quinto Rich. 2. stat. pri. cap. 14. & 15* to the effect above specified. These *anno 37. Ed. 3. cap. 4.* be called Clerks of

the Remembrance. It seemeth that the name of this officer is borrowed from the Civilians, who have their *Memorales*, qui sunt notarii Cancellarie in regno subiecti officio *Quæstoris.* Lucas de penna. *C. lib. 10. tit. 12. nu. 7.* The Kings Remembrancer entreteth in his office all recognisances, taken before the Barons for any the kings debts, for appareneces or for observing of orders. He takes all bonds for any of the kings debts, or for appearance, or for observing of orders, and maketh Proces upon them for the breach of them. He writeth Proces against the Collectors of customes, and subsidies, and fifteenths, for their accounts. All informations upon penall Statutes are entred in his office. And all matters upon english-Bills, in the Exchequer-chamber are remaining in his office. He maketh the bills of compositions upon penal lawes: taketh the tallments of debts: maketh a record of a certificate delivered unto him by the Clerke of the Starre-chamber of the fines there set, and sendeth them to the Pipe. He hath delivered unto his office all maner of indentures, fines, and other eviednces whatsoever, that concern the assuring of any lands to the Crown. He yearly in *crastino animarum* readeth in open court the statute for the elections

elections of Shyreeves, and giveth those that chuse them their oath: hee readeth in open Court the oath of all the Officers of the Court, when they are admitted.

The Treasurers remembrancer maketh processe against all Shyreeves, Escheatours, Receivers, and Bayliffes for their accompts. Hee maketh processe of (*Fieri facias*) and Extent for any debts due to the King, either in the Pipe, or with the Auditors. Hee maketh processe for all such Revenew as is due to the King by reason of his Tenures. Hee maketh a Record, whereby it appeareth whether Shyreeves and other accountants pay their profers due at Easter and Michaelmas. He maketh another Record, whereby it appeareth, whether Shyreeves and other Accountants keepe their dayes of prefixion. All Extreates of Fines, Issues, and Amerciaments set in any Courts of *Westminster*, or at the Assises; or Sessions, are certified into his Office, and are by him delivered to the Clerke of Extreates to write proces upon them. Hee hath also brought into his Office all the accompts of Customers, Controllers, and other accomptants to make thereof an entry of Record.

The Remembrancer of the first fruites, taketh all compo-

sitions for first Fruitcs and Tenthes, and maketh processe against such as pay not the same.

Remitter, commeth of the French (*remettre. i. restituere,aponere*) and signifieth in our common Law, a restitution of one that hath two titles to Lands or Tenements, and is seised of them by his latter Title, unto his title that is more ancient, in case where the latter is defective. *Fitzherbert natura brev. fol. 149. F. Dyer folio 68. num. 22.* This in what case it may be graunted to any man, see in *Brooke titulo Remitter*: and the Termes of Law. The Doctor and Student, of this matter hath these words: if land descend to him that hath right to that Land before, hee shall be remitted to his better title, if hee will. *Cap. nono fol. 19. b.* See the new Booke of Entries: *verbo Remitter.*

Render, commeth of the French (*Rendre. i. reddere, retribuere, restituere*) and signifieth in our Common Law, the selfesame thing. For example, this word is used in levying of a Fine. For a Fine is either single, by which nothing is graunted, or rendred backe againe by the Cognizee, to the Cognizour: or double, which conteineth a grant, or render backe againe of some Rent common,

or other thing out of the Land it selfe to the Cognisor, &c. *West. parte 2. Symbol. titulo Fines. Sect. 21. & 30. F.* Also there bee certaine things in a Manor that lye in *Prender*, that is, which may bee taken by the Lord or his Officer, when they chance, without any offer made by the tenant, as the Ward of the body of the Heire, and of the Land, Escheats, &c. and certaine that lye in *Render*, that is, must be delivered or answered by the Tenant, as Rents, Relieves, Heriots, and other services. *Idem eodem Sect. 126. C.* Also some service consisteth in *feisance*, some in *Render*. *Perkins Reservations, 696.*

Rent, (*reditus*) commeth of the French (*Rent. i. redditus, pensitatio annua*) and signifieth with us, a summe of money or other consideration issuing yearely out of Land or Tenements. *Plowden, case Browning, fol. 132. b. & fol. 138. a. 141. b.* There be three sorts of Rents observed by our Common Lawyers: that is, Rent service, Rent charge, and Rent seck. Rent service is, where a man holdeth his Land of his Lord by Fealty, and certain Rent, or by Fealty, Service, and certaine Rents. *Littleton lib. 2. cap. 12. fol. 44.* or that which a man, making a lease to another for terme of yeeres, reserveth yeerely to bee paid him for the

same. *Termes of Law. verbo Rents*, who giveth this reason thereof, because it is in his libertie, whether hee will distreine, or bring an action of Debt. A Rent charge is that which a man making over an estate of his Land, or tenements to another, by deed indented, either in fee, or fee taile, or lease for terme of life, reserveth to himselfe by the said Indenture a summe of Monie yeerely to bee paid unto him with clause of distresse, or to him and his heires. See *Littleton ubi supra*. A Rent seck otherwise a dry Rent, is that, which a man making over an Estate of his Land or Tenement, by Deede indented, reserveth yeerely to bee paid him without clause of distresse mentioned in the Indenture. *Littleton ubi supra*. and *Termes of the Law. verbo Rents*. See the new *Expositor of Law Termes*: See *Plowden, case Browning. fol. 132. b.* See the differences betweene a Rent and an Annuitic. *Doctor and Student. cap. 30. Dialog. primo.*

Reparatio facienda, is a writ, which lyeth in divers cases, whereof one is, where three bee Tenants in common, or joynt tenants, or *pro Indiviso*, of a Mill, or house which is fallen into decay, and the one being willing to repaire it, the other two will

will not. In this case, the party willing shall have this writ against the other two. *Fitz. nat. bre. fol. 127.* where read at large the forme and many uses of this writ, as also in the *Regi. orig. fol. 153. b.*

Repeale, commeth of the French (*Rappel. i. Revocatio*) and signifieth in our common-law even the same; as the Repeale of a statute, *Rastall titulo Repeale.* Brooke useth Repellance in this signification, *titulo Repellance.*

Repleader (*Replacitare*) isto pleade againe, that which was once pleaded before. *Rastall, titulo Repleader.* See the new booke of *Entries, verbo Repleader.*

Replegiare. See *Replevin.* See *Second deliverance.*

Replevin (*Plevina*) is the bringing of the writ called *Replegiari facias*, by him that hath his cattell or other goods distreined by another for any cause, and putting in surety to the Shyreewe, that upon the delivery of the thing distreined, hee will perswue the action against him that distreined. *Termes of law.* See *Replegiare.* It is used also for the bayling of a man. *pl. cor. fol. 72. 73. 74. & West. pri. cap. 11. & cap. 15. anno 3. Ed. 1.*

Replegiare de averiis, is a writ brought by one, whose cattell hee distreined or put in pound upon any cause by another, upon surety given to the Shyreewe

to perswue the action in law *anno 7. H. 8. cap. 4. Fitz. nat. br. fol. 68.* See the Register originall, of divers sorts of this writ called *Replegiare*, in the Table, *verbo eodem.* See also the Register Judiciall, *fol. 58. & 70.* See also the new booke of *Entries. verbo Replevin.* See *Dyer fol. 173. m. 14.*

Replevish (*Replegiare*) is to let one to mainprise upon surety. *anno 3. Ed. 1. cap. 11.*

Replication (*replicatio*) is an exception of the second degree made by the plaintife upon the first answer of the Defendant, *West. parte 2. symbol. titulo Chaucery. sect. 55. & West. 2. anno 13. Ed. pri. cap. 36.* This is borrowed from the Civilians, *De replicationibus, li. 4. Insitutio. titulo. 14.*

Report (*Reportus*) is in our common law a relation, or repetition of a case debated, or argued, which is sometime made to the Court, upon reference from the Court to the Reporter, sometime to the world voluntarily, as *Ploydens reports*, and such like.

Repositum of the Forest, was an act wherby certain forest grounds being made purlieu upon view, were by a second view laid to the Forest againe. *Mannwood, parte pri. pag. 178.*

Reprisels, (*Reprisalia*) are all one in the common and civill law. *Reprisalia est potestas pignorandi contra quemlibet de terra debi-*

toris data creditori pro injuriis & damnis acceptis. Vocabularius utriusque juris. This among the auncient Romanes was called (*Clarigatio*) of the verbe (*Clarigo. i. res clarè repeto*) It is called in the Statute anno 27. Ed. 3. stat. 2. cap. 17. *Law of Marque*, of the German word *March. i. terminus, limes*. And the reason may bee, because one destitute of Justice in another territory, redresseth himselfe by the goods belonging to men of that territorie, taken within his owne bounds.

Requests (Supplicum libelli, Curia Requisitionum) is a Court of the same nature with the Chancery, redressing by equitie the wrongs that poore men doe suffer at their hand, whose might they are not able to withstand either in Law or otherwise. It tooke beginning as some men thinke, by commission from King Henry the 8. before which time the Masters of Requests had no warrant of ordinary Jurisdiction, but travailed between the Prince and Petitioners, by direction from the mouth of the King. *Guins Preface to his readings.* But see *Court of Requests*.

Resceyt (Receptio) seemeth to be an admission of a third person to pleade his right in a cause formerly commenced,

betweene other two. See the new booke of *Entries. verbo Resceit. v. Aide prier.* The Civilians call this *admissionem tertii pro suo interesse*. Of this you have one example in the *Termes of Lawe*, viz. if Tenent for terme of life, or Tenent for terme of yeeres bring an action: hee in the reversion commeth in, and prayeth to bee received to defend the land, and to plead with the Demandant. Many more you may have in *Brooke, titulo, Resceite. fol. 205.* See *Perkins Dover. 448.* Receit is also applyed to an admittance of plee, though the controversie bee but betweene two onely. *Brooke estoppel. in many places.*

Resceyt of homage, is a relative to doing homage, for as the Tenent, who oweth homage, doth it at his admission to the land: so the Lord receiveth it. *Kitchin fol. 148.* See *Homage*.

Rescou (Rescussus) commeth of the French (*Rescourre se Rescourre du danger. i. asserere se ab injuria*) It signifieth in our common Law a resistance against a lawfull authoritie: as for example, if a Baylife, or other Officer upon a writ doe arrest a man, and another (one or more) by violence doe take him away, or procure his escape: this act is called, a *Rescou. Cassanem* in his booke *de consuetud. Burg.* hath the

the same word coupled with (*resistentia*) fol. 294. whereby it appeareth, that other nations doe use this word in the same signification that we doe, or the very like. It is also used for a writ, which lyeth for this act called in our Lawyers Latine (*Breve de rescussu*) whereof you may see both the forme and use in *Fitz. nat. bre. fol. 101.* and the *Register originall. fol. 125.* See the new booke of *Entries. verbo rescous.* This *rescou*, in some cases is treason, and in some felony. *Crompton. Justice fol. 54. b.*

Reseizer (reseisire) is a taking again of lands into the Kings hands, whereof a generall livery, or *ouster le main* was formerly missued by any person or persons, and not according to forme and order of law. Of this see *Stamf. preroga. 26.* where it is handled at large. See *resumption.*

Resiance (resiantia) seemeth to come of the French (*rasseoir*, see *Rasseoir. i. residere*) and signifieth a mans aboad or continuance in a place. *Old nat. br. fol. 85.* whence also commeth the participle (*resiant*) that is, continually dwelling, or abiding in a place. *Kitchin. fol. 33.* It is all one in truth with Residence, but that custome of speech tyeth that onely to persons ecclesiasticall.

Reservation, signifieth that rent or service which the graunter in

any graunt tyeth the grauntee to performe unto him, or them, or the Lord *Paramonte.* *Perkins reservations. per totum.*

Residence (residentia) commeth of the Latine (*residere*) and is peculiarly used both in the Canon and Common Lawe, for the continuance or aboad of a Parson or Vicar upon his benefice. The default whereof (except the partie bee qualified, and dispented with) is the losse of tenne pounds for every moneth, *anno 28. Henr. 8. cap. 13.*

Resignation (resignatio) is used particularly for the giving up of a Benefice into the hands of the Ordinarie, otherwise called of the Canonists (*renunciatio.*) And though it signifie all one in nature with the word (*Surrender*) yet it is by use more restrained to the yeelding up of a spirituall living, into the hands of the Ordinarie, and *Surrender* to the giving up of temporall Lands into the hands of the Lord. And a resignation may now bee made into the hands of the King, as well as of the Diocesan, because hee hath *supremam auctoritatem Ecclesiasticam*, as the Pope had in time past. *Plowden. casu Grendon. fol. 498.*

Resort, is a word used properly in a writ of ayle, or counse-

nage, as descent is in a writ of right. Ingham.

Respectu computi Vice-comitis habendo, is a writ for the respiting of a Shyreeves accompt upon just occasion, directed to the Treasurer and Barons of the Exchequer. *Register fol. 139. & 279.*

Respight of homage, (*respectus homagii*) is the forbearing of homage, which ought first of all to bee performed by the tenant, that holdeth by homage. Which respight may bee occasioned upon divers good reasons: but it hath the most frequent use in such as hold by Knights service *in capite*: who because the Prince cannot bee at leasure to take their homage, doe pay into the Exchequer, at certaine times in the yeere, some small summe of money to bee respighted, untill the Prince may bee at leasure to take it in person.

Responsions (*responsiones*) seemes to be a word used properly and especially by the Knights of *S. John of Jerusalem*, for certain accompts made unto them by such as occupied their lands or stockes. *anno 32. H.8. cap. 24.*

Responsalis, is hee that cometh for another at the day assigned for his appearance in Court, *Bracton. Fleta* seemeth to make a difference betweene

attornatum, *essoniatores* & *responsalem*, *lib. 6. cap. 11. §. Officium*, as if *essoniator* came onely to alledge, the cause of the parties absence, be hee the demandant or tenant, and *responsalis* came for the tenant not onely to excuse his absence, but also to signifie what tryall hee meant to undergoe, *viz.* the combate or the Countrie. *lib. 6. cap. 11. §. Si autem*. A man in auncient time could not appoint an Atturney for him, without warrant from the King. *Fleta, eodem cap. 13. in fine*. See Atturney. This word is used in the Canon Law, *Et significat procuratorem vel eum qui absentem excusat. cap. Cum olim propter. extra. de rescript.*

Restitutio (*restitutio*) is a yeelding up againe of any thing unlawfully taken from another. It is used in the common Law, most notoriously for the setting him in possession of lands or tenements, that hath beene unlawfully disseised of them, which when it is to be done, and when not, see *Cromptons Justice of peace. fol. 144. b. &c. usque 149.*

Restitutio extraëti ab Ecclesia, is a Writ to restore a man to the Church, which he had recovered for his sanctuary being suspected of felonie. *Register orig. fol. 69. a.*

Restitutio temporalium, is a Writ that lyeth in case, where a man

man being elected, and confirmed Bishop of any Diocese, and hath the Princes Royall assent thereunto, for the recovery of the Temporalities, or Baronie of the said Bishopricke, with the appurtenances. And it is directed from the King to the Escheatour of the County, the forme whereof, you have in the *Regist. orig. fol. 294.* and in *Fitzb. nat. bre. fol. 169.* Where you may reade also, that it lieth for those Abbots and Priors, newly elected and confirmed, that were of the Kings foundation.

Resummons (*resummonitio*) is compounded twice, that is, of *re*, *sub*, and *Mono*: and signifieth a second summons, and calling of a man to answer an action, where the first summons is defeated by any occasion, as the death of the partie, or such like, *Brooke, titu.* See *Resummons, fol. 214.* See of these foure sorts, according to the foure divers cases in the Table of the Register Judiciale, *fol. 1.* See also the new booke of Entries, *verbo, Reattachement, & Resummons.*

Resumption (*resumptio*) is particularly used for the taking againe into the Kings hands, such land or tenements, as before upon false suggestion, or other error, hee had delivered to the heire, or granted by Letters Patents to any man, *Brooke, titulo*

Repe'llance, & Resumption, fo. 298. Thus it is applyed, *anno 31. H. 6. cap. 7.* See *Repe'ller.*

Retainer, commeth of the French (*retenir. i. detinere, retinere*) it signifieth in the common Law, a servant not meniall nor familiar; that is, not continually dwelling in the house of his Lord or Master, but onely using, or bearing his name or Liverie. This Liverie was wont to consist of Hats (otherwise hoods) Badges, and other suits of one garment by the yeare, *anno 1. R. 2. cap. 7.* These were taken by great Lords, many times upon purpose of maintenance, and quarrels, and therefore they have beene justly, for the better freedome of Law, forbidden by many Statutes: as namely by *anno 1. Rich. 2. cap. 7.* upon paine of imprisonment, and grievous forfeiture to the King: and againe, *anno 16. ejus. cap. 4. & anno 20. ejusdem, cap. 1. & 2. and anno prim. H. 4. cap. 7.* by the which, the Lords offending herein, should make ransome at the Kings will, and any Knight or Esquire hereof duly attainted, should lose his said Liverie, and forfeit his fee for ever; and any Yeoman wearing the Livery of the King, or other Lord, should bee imprisoned, and make ransome at the Kings will, onely some few excepted in the said Statute: which statute

is furder confirmed, and explained, *anno 2. H. 4. cap. 21. & an. 7. ejusd. cap. 14. & anno 13. ejusd. cap. 3. & anno 8. H. 6. ca. 4.* And yet this offence was so deeply rooted, that *Edward* the fourth was driven to confirme the former statutes, and furder to extend the meaning of them, as appeareth by the statute made *anno 8. Ed. 4. cap. 2.* adding an especiall paine of five pounds to every man that giveth such Liverie, and as much to every one so retained, either by writing, oath, or promise, for every moneth. Yet is not this fault so well looked unto, but that there is need of more pregnant Lawes for the redresse thereof, or at the least better execution of those, that be already made. These be by the Feudists called (*affidati.*) *Sic enim dicuntur, qui in alicujus fidem & tutelam recepti sunt. Neapol. constit. lib. 3. titulo 7.* And as our retainers are here forbidden: so are those (*affidati*) in other countries.

Retraxit, is an exception against one that formerly commenced an action, and withdrew it, or was non-suit before tryall. *Brooke. titulo, Departure in desight, & Retraxit. fol. 216.* See also the new booke of Entries: *verbo deperter & verbo retraxit.*

Returne (returna) commeth of the French (*retour. i. reditio, rever-*

sio, recursus) and in our common Law, hath two particular applications, as namely the return of a Writ by Shyreeves, and Bayliffs, which is nothing but a certificate made to the Court, whereunto the Writ directeth him, of that which hee hath done, touching the serving of the same Writ. And this among the Civilians is called *Certificatorium*. Of returnes in this signification, speake the Statutes of *Westm. 2. cap. 39. anno 13. Ed. prim. and Tractatus contra Vice-comites & Clericos*, with divers other, collected by *Rastall, titulo Returne of Shyreeves*. So is the returne of an Office, *Stamnf. prerog. fol. 70.* a certificate into the Court, of that which is done by vertue of his Office: See the *Statutes of dayes in banke; anno 51. H. 3. & anno 32. H. 8. cap. 21.* And in this signification *Hilary Terme* is said to have foure returnes. *viz. Octabis Hilarii, Quindena Hilarii, crastino Purificationis; Octabis Purificationis: and Easter Terme* to have 5. returnes, *viz. Quindena Pasche, Tres pasche, Mense pasche, Quinq; pasche, & crastino Ascensionis.* And *Trinity Terme* 4. returnes. *i. Crastino Trinitatis, Octabis Trinitatis, Quindena Trinitatis, Tres Trinitatis.* And *Michaelmas Terme* 8. returnes. *sc. Octabis Michaelis, Quindena Michaelis, Tres Michaelis, Mense Michaelis, Crastino*

stino animarum, Crastino Martini, Octabis Martini, Quindena Martini.

The other application of this word is in case of *Replevy*. For if a man distraine cattell for rent, &c. And afterward justifie or avowe his act, that it be found lawfull, the cattell before delivered unto him that was distrained upon securitie given to follow the action, shall now bee returned to him, that distrained them. *Brooke, titulo Returne d'aurs & hommes, fol. 218.* you shall finde this word often used in *Fitzherb. nat. br.* as appeareth in the word *Returne* in his table: but in all those places it hath the one or the other of these two significations.

Returno habendo, is a writ, which lyeth for him that hath avowed a distresse made of cattell, and proved his distresse to bee lawfully taken for the returne of the cattell distrained unto him, which before were repleuied by the party distrained, upon surety given to perswue the action. *Terms of law, verbo Repleuin.*

Returnum averiorum, is a writ Judiciall, granted to one impleaded for taking the cattell of another, and unjust deteining of them *contra vadium & plugios*, and appearing upon summons is dismissed without day, by reason that the plaintife maketh de-

fault, and it lyeth for the returne of the cattell unto the Defendant, whereby hee was summoned, or which were taken for the securitie of his apparance upon the summons. *Register Judicial. fol. 4. a.*

Returnum irreplegiabile, is a writ judiciall sent out of the common plees to the Shyreue, for the finall restitution or returne of cattell to the owner, unjustly taken by another as dammage seisant, and so found by the jury before Justices of Assise in the County. For which see the *Regist. Judicial. fol. 27. a. b.*

Rene, aliàs *Greue* (*Præfectus*) is made of *Gerefa* the Saxon word for a Governour. *Lamb. explica: of Saxon words, verbo Præfectus*, and that by rejecting the first syllable, which (hee saith) among the Saxons is usuall. It signifieth in our common law, the Bayliffe of a Fraunchis or maner, and especially in the West parts. Of this you may see *Kitchin, fol. 43.* See *Greue*. See *Shyreue*. See also of this word *M. Verstigan* in his restitution of decayed intelligence. *cap. 10.* speaking much to the same effect.

Revels, seemeth to be derived from the French word (*Reveiller. i. excitari, vel expergescieri*) It signifieth with us sports of daunsing, masking, comedies, tragedies, and such like used in

made, whereof if you desire farther knowledge, reade *Gerards herball. lib. 1. cap. 52.* This is mentioned among merchandize to bee garbled in the statute. *an. 1. Jaco. cap. 19.*

Roag (*Rogus*) seemeth to come of the French (*Rogu. i. anrogans*) It signifieth with us an idle sturdy begger, that wandring from place to place without passport, after hee hath benee by Justices bestowed upon some certaine place of abode, or offered to be bestowed, is condemned to bee so called, who for the first offence, is called a Roag of the first degree, and punished by whipping, and boring through the grissell of the right eare with a hot iron an inch in compass: and for the second offence, is called a Roag of the second degree, and put to death as a felon, if he be above 18. yeeresould. See the statute *ann. 14. Eliz. cap. 5. & 18. ejusdem, cap. 3. & ann. 36. cap. 17.* If you will know who be Rogues, and to be punished as Rogues by law, Reade *Lamberds Eirenarcha. lib. 4. cap. 4.* See *Rout.*

Robberie (*Robaria*) commeth of the French (*Robbe. i. vestis*) and in our common lawe, a felonious taking away of another mans goods from his person or presence, against his will, putting him in feare, and of

purpose to steale the same goods *West. parte 2. symbol. titulo Indiments, sect. 60.* This is sometime called violent theft. *Idem, eodem.* which is felonie for two pence. *Kitchin. fol. 16. and 22. lib. Assis. 39.* *Robaria* is a word also used in other nations, as appeareth by the annotations upon *Mathew de Afflictis, descis. 82. num. 6. pag. 122.* See *Shene verbo Reis. libro de verbo. significat.* See *Crompt. Justice of peace. f. 30. b.*

Robertsmen, an. 5. Ed. 3. cap. 14. & anno 7. R. 2. cap. 5. M. Lamb. interpreteth them to be mighty theeves. *Eirenarch. li. 2. cap. 6. pag. 190.*

Rodknights, aliàs Radknights, are certaine servitours, which hold their lands by serving their Lord on horse-back. *Bracton. lib. 2. cap. 36. num. 6.* saith of them, *debent equitare cum Domino suo de manerio in manerium, vel cum Domini uxore. Fleta lib. 3. ca. 14. §. Coniunctur.*

Rodde (*Pertica*) is otherwise called a pearche, and is a measure of 16. foote and an halfe long, and in *Stafford-shire* 20. foote, to measure land with. See *Pearch.*

Rose tyle, aliàs Crest tyle, is that tyle which is made to lay upon the rudge of the house. *anno 17. Ed. 4. cap. 4.*

Rogation weeke (*dies rogationum*) is a time well knowne to all,

all, being otherwise called Gangweeke. The reason why it is so termed, is because of the especiall devotion of Prayer and Fasting, then enjoyned by the Church to all men, for a preparative to the joyfull remembrance of Christs glorious Ascension, and the Descension of the holy Ghost, in the forme of cloven Tongues shortly after. And in that respect the solemnization of carnall Matrimony is forbidden from the first day of the said week, untill Trinity Sunday. See *Advent*.

Roode of Land (*Roda terra*) is a certain quantitie of Land being the fourth part of an Acre. *anno 5. Eliz. cap. 5.* See *Perch*.

Roll, *alias*, *Roile* (*Rotulum*) cometh of the French (*rouler*. i. *valvere*, *pervolvere*, *rotare*) whence also is the French (*Role ou Roile*. i. *volumen*, *catalogus*, *codex*). It signifieth with us a shedule of Paper, or Parchment turned or wound up with the hand to the fashion of a pipe. So is it used in *Stawns. ples of the Crowne. fol. 11.* The Chequer Roll of the Kings house, out of the Statute *anno. 3. H. 7. cap. 13.* which signifieth nothing but the catalogue wherein the names of the Kings household Servants are set downe. And *anno 5. Rich. 2. cap. 14. stat. prim.* there is mention made of the great Rolle of

the Exchequer which seemeth otherwise to bee called the Pipe. The Roules is also a place destinated, by *Edward. 3.* to the keeping of the Rolles, or Records of the Chancerie situate betweene the two Temples in London, *Camden. Britan. pag. 321.* the Master whereof is the second man in Chauncery, and in the absence of the Lord Chauncelor, or Keeper, sitteth as Judge, being commonly called the Master of the Rolles. See *Master of the Rolls*.

Romescot, is compounded of *Rome*, and *Scot*, as you would say, the tribute due to Rome: it is called by *Mathaus Westmonasteriensis, Consuetudo Apostolica, à qua neque Rex, neque Archiepiscopus, vel Episcopus, Abbas, vel vel Prior, aut quilibet in regno immunitur*: and was first graunted by *Offa* a Saxon King. *Camden. Britan. pag. 306.* See *Peter pence*: and *Roger Hoveden parte poster. suorum annalium. fol. 344. a. in Henr. secundo.*

Roundlet, is a certaine measure of Wine, Oyle, &c. containing 8. gallons and a halfe, *anno 1. R. 3 cap. 13.*

Route (*roua*) is a French word signifying a company, or flocke: as (*une grande route de gens on de cerfs*. i. *grex hominum, longa servorum series*) It signifieth in our Common Law, an as-

sembly of three persons or more, going on about forcibly to commit an unlawfull act, but yet doe it not, *Westm. parte 2. symb. titulo Indictments. sect. 65. O. M. Lamberd* thus saith of it : A Rout is the same, which the *Germanes* yet call *Rot*, meaning a band or great company of men gathered together, and going about to execute, or executing indeede, any Riot or unlawfull act : and (saith more) it is said properly of the multitude that assemblenth themselves in such disorderly sort, for their common quarrells. As if the inhabitants of a Towne-ship doe assemble to pull downe a hedge, or pale, to have their common, where they ought to have none, or to beat a man that hath done them some publicke offence or displeasure. But the Statute of 18. Ed. 3. stat. prim. cap. unico. which giveth Proceffe of outlawry against such as bring routs into the presence of the Justices, or in affray of the people, and the Statute of 2. Richard 2. cap. 6. that speaketh of riding in great routes to make entry into Lands, and to beate others, and to take their wives, &c. doe seeme to understand it more largely. And it is a route, whether they put their purpose in execution or no : if so bee, that they doe goe, ride, or move forward after their meeting. *Brook titulo, Riot. 4. & 5. So*

(as it seemeth) a Rout should bee a speciall kind of unlawfull assembly : and a Riot the disorderly fact committed generally by any unlawfull assembly. Howsoever it bee, two things are common both to Riot, Rout, and unlawfull assembly : the one, that three persons at the least bee gathered together : for so it is commonly taken at this day, as I have learned : the other, that they being together, doe breede disturbance of the peace, either by signification of speech, shew of Armour, turbulent gesture, or actuall & expresse violence : so that either the peaceable sort of men bee unquieted, and feared by the fact, or the lighter sort, and busie-bodies emboldned by the example. Thus farre *M. Lamberd* in his *Eirenarcha*, libro 2. cap. 5. &c. where you may reade more worth the noting, though too long to be copied out. See *Riot*, and *Unlawfull assembly*. *Kitchin* giveth the same definition of a Route, fol. 2c.

Rowing of clothes. anno 27. H. 8. cap. 13.

Royall assent (regius assensus) is that approbation which the King giveth to a thing formerly done by others : as to the election of a Bishop by Deane and Chapter. Which given, then he sendeth an especiall Writ to some per-

person for the taking of his fealty. The form of which Writ you may see in *Fitzh. nat. br. fol. 170. C.* And also to a Bill passed by both the houses of Parliament. *Cromptons Jurisd. folio 8.* which assent being once given, the Bill is endorsed with these words : *Le Roy vult. i.* It pleaseth the King. If hee refuse to agree unto it, then thus : *Le Roy aviserà. i.* the King will yet thinke of it. See *Parliament.*

Royalties (*Regalia vel regalitates*) be the rights of the King. *Lura regis. Hotoman in verbis feudali-bus, verbo, Regum Feudista.* And so are they understood of us likewise, who otherwise call them the Kings Prerogative. See *Prerogative.* And some of these be such as the King may grant unto common persons, some so high, as may not bee separated from his owne Crowne *privativè*, as the Civilians terme it, though *cumulativè* he may. See *Bracton. lib. 2. cap. 5.* These bee in some sort expressed in the first of *Samuel. cap. 8.* but these generalities bee specified more at large by those Lawyers that write of this point. Among whom I especially commend *Mathæum de Afflictis* upon the Title of the Feuds. *Quæ sint regalia,* being the 33. title of the third Booke as some divide them, but according to others the 56. of

the second Booke : where bee named in the Text 25. specialties of Royalties. See also *Hotomans Commentaries in lib. 2. Feudor. cap. 56.*

Rouge crosse. See *Herald.*

Rudge washed Kersley. i. made of fleece wooll washed only on the sheepes back. *anno 35. Eliz. cap. 10.*

S A

Sables. See *Furre.*

Sac. (*Sacha vel Sacca*) is a Royaltie or priviledge touching plee, and correction of trespassses of men within a Manor. *Rastal, titulo Exposition of words :* where he addeth this reason : because (saith he) *Sac* in English is (*Encheson*) in French : as to say, for *sick sack, pur quel encheson. i.* for what hurt. That which our Common Lawyers call (*encheson*) the true French man termeth (*Achoise. i. occasionem*) as (*Achoise fort grande, occasio ampla*) or else may *encheson* come of (*Encheoir. i. incidere*) which wee in English call an *accident*, or *incident*. But all this is farre enough from (*Sac*) and from the interpretation thereof, as it is a Libertie or Priviledge. *Bracton* hath the word, as *Stamford* noteth out of him, *pl. cor. lib. pri. cap. 23.* but neither of them both doe particularly interpret it. *Bractons* words be these, *lib. 3.*

tract. 2. cap. 8. vel si sit aliquis qui de concessione Domini Regis talem habeat libertatem (sicut sock & sack, Tolnetum, Team, Infangthefe, & Huisfangbhefe) qui inventus fuerit seiscitus de aliquo latrocinio, sicut Hondhabende & Backberend, tales habent regalem potestatem: & unde qui tales libertates habent, habebunt prisonam suam de talibus, quia possunt tales in Curia sua judicare. Of the which matter hee speaketh also in lib. 2. cap. 24. nu. 2. & 3. and againe lib. 3. tract. 2. cap. 35. But in none of these places hee giveth any interpretation of the word. Saxon in his description of England defineth Sack to be a forfeiture, as doth Rastoll ubi supra. fol. 132. M. Camden in his Britan. pag. 415. speaking of Lincoln: hath these words: Eduardo Confessore regnante, erant (ex censuali libro loquor) 1070. mansiones hospitala, & duodecim Lageman habentes focam & sacam. To all these adde Bracton. lib. 2. ca. 5. where he writeth thus. Sunt & alie res quasi sacre, que personam Regis respiciunt, & aliquando transferri non possunt, nisi Justiciariis Domini Regis, sicut visus Franciplegii, placita de vetito mannio, commendatio transgressionis Assisarum, Judicium latronum, sicut de illis qui habent sock & sack & bujnsmodi omnia, que pertinent ad pacem, & per consequens ad Coronam. I am informed, that the word

(sack) in the Saxon tongue doth properly signifie so much as (causa) with the Latines: whence we in English have the word (sake) as (for whose sake) M. Skene de verb. signif. verbo, Sacke, writeth thus. In some old bookes it is called placitum & emenda de transgressionem hominum in Curia Nostra. In the Lawes of King Edward set forth by Master Lamberd, fol. 132. it is written (Sacha) Sacha autem est, si quilibet aliquem nominatim de aliquo calumniatus fuerit, & ille negaverit, forisfactura probationis, vel negationis (si e venerit) sua erit. Which may be called the Amercement payed by him who denieth that thing, which is proved against him to be true, or affirmeth that thing, the contrary whereof is true. Thus far M. Skene. Fleta of this hath these words: Sake significat acquietantiam de jecta ad Comitatum, & Hundredum. lib. 1. ca. 47. §. Sake. But by all those I find not any reason of the word, that is, why this liberty should be so called, and therefore I must leave it to better Antiquaries or Linguists. See Roger Hoveden parte poster. suorum annalium. fol. 345.

Sacchius cum brochia, seemeth to be a service of finding a Sacke and a broach to the King by virtue of a Tenure, for the use of his Armie. Bract. lib. 2. c. 16. v. 6.

Sacke of Wooll (saccus lane) is a quan-

a quantitie of wooll, that containeth 26. stone, and a stone, fourteen pounds, anno 14. *Edw. 3. stat. 1. cap. 21.* See *Sayplur.*

Sacramento recipiendo, quod vidua Regis se non maritabit sine licentia Regis, is a Writ or commision to one for the taking of an oath of the Kings Widow, that shee shall not marry without the Kings licence. *Register original, fol. 298. a.*

Safe conduct. See *Sansf conduct.*

Salus, is a coyne of Gold stamped by King Henry the sixth in France, which onely coyne, with another of Blanes of eight pence a piece, was currant in those places of France, where King Henry was obeyed. *Stowes Annals, pag. 589.*

Safe pledge (Salum plegius) is a suretie given for a mans appearance against a day assigned, *Bracton lib. 4. cap. 2. nu. 2.* where it is also called *certus plegius*.

Sailing ware, anno prim. R. 3. cap. 8.

Sak. See *Sac.*

Sakeber, in *Britton cap. 15. & 29.* seemeth to bee hee that is robbed, or by theft deprived of his goods: with whom *Bracton* also agreeth, *lib. 3. tractu. 2. cap. 32. nu. 2.* in these words: *Furtum vero manifestum est, ubi latro deprehensus sit seisisus de aliquo la-*

trocinio sc. Hondhabende, & Backberend, & insecutus fuerit per aliquem, cujus res illa fuerit, qui dicitur Sacaburthe, &c. or Sathaber, as *Stanford* calleth it, *pl. cor. lib. pri. cap. 21.* The interpretation of this word I finde not. Onely *M. Skene de verb. interpretatione, verbo. (Sacreburgh)* thinketh it should rather be written. *Sickerborgh*, of (*Sicker. i. Securus*) and *Borgh. i. plegius*) signifying a sure cautioner, or surety which one findeth to another for theft, or slaughter: whereof he offereth to accuse him judicially. For in this case it behoveth the persiewer to oblige, or binde himselfe into the hands of the Officer, or before a Judge competent with *Sicker Borgh*, or sure caution, that hee will persiew in form of Law. And by this meanes it may bee, that the accuser was wont with us to be called *Sakbere* of a circumstance, because in this case hee was surely bound to persiew. *Sycker* is also an old English word, signifying as much as sure, secure, or certaine, and see *Borrowe*.

Salet, is a head-piece, anno 4. & 5. *Phil. & Mar.* it seemeth to come from the French (*Salut. i. Salus.*)

Salmon sewse, seemeth to bee the young fry of *Salmon*, quasi *salmonissus*, anno 13. *Rich. 3. stat. pri. cap. 19.*

Salva Gardia, is a security given by the King to a stranger, fearing the violence of some of his subjects, for seeking his right by course of Lawe: the forme whereof see in the Register originall. fol. 26. a. b.

Sanctuarie (*Sanctuarium*) is a place privileged by the Prince, for the safegard of mens lives, that are offenders, being founded upon the Lawe of mercie, and upon the great reverence, honour, and devotion, which the Prince beareth to the place, whereunto hee graunterh such a priviledge. Of this you may read a sufficient treatise in *Stawns. pl. cor. lib. 2. cap. 38.* This seemeth to have taken beginning from the Cities of refuge: which *Moyse* appointed them to fly unto for safegard of their lives, that had by casualtie slaine a man, *Exodus cap. 21.* In bastardly imitation whereof, first the *Athenians*, then *Romulus* erected such a place of immunity, which they, and hee after them called *Asylum*. *Polydor: Virg: de inventione rerum, li. 3. cap. 12.* The Emperours of Rome made the places of their owne statues or Images, a place of refuge, as appeareth. *Cod. lib. 1. titulo 15. De iis qui ad statuas confugiunt*: as also the Churches: *eodem, titulo 12. De iis qui ad ecclesias confugiunt, &c.* But among all other nations,

our ancient Kings of England seeme to have attributed most to these Sanctuaries, permitting them to shelter such, as had committed both felonies, and treasons, so that within fortie dayes they acknowledged their fault, and so submitted themselves to banishment: during which time, if any man expelled them, if hee were lay, he was excommunicated, if a Clerke, hee was made irregular. But after fortie dayes no man might relieve them. *Stawns. ubi supra.* See of this the new booke of *Entries: verb. Sanctuary*: and *Fleta: lib. 1. cap. 29.* And how by degrees they have beene taken away, you may read partly in him, and partly in the statutes, *a. 26. Hen. 8. ca. 13. & anno 28. ejusdem, cap. 7. & anno 32. ejusd. cap. 12. & anno 33. ejusdem, cap. 15. & anno pri. Ed. 6. cap. 12. & anno 2. ejusdem, cap. 2. & cap. 33. & anno 5. ejusdem cap. 10.* See *Abjuration.*

Salarie (*salarium*) is a recompence or consideration made to any man for his paines or industry bestowed upon another mans businesse. So called, as *Pliny* saith, *qui tam necessarium quam sat homini.* The word you have, *anno 23. Ed. 3. cap. pri.*

Salmon pipe, *anno 25. H. 8. cap. 7.* is an engine to catch Salmons, and such like Fish.

Sandall, anno 2. *Rich.* 2. cap. 1. is a merchandize brought into England. And it seemeth to bee a kinde of wood brought out of *India*. For (*Sandal*) in French so signifieth, and in Latine it is called *Santalum*.

Sarking time, or time of *sarcling*. Seemeth to be all one with hey feele. Or the time when the country man weedeth his Corne. And it proceedeth from the Latine *sarculore*, to rake or weede. Or from the French (*Sarcler*) which hath all one signification.

Sarplar, (*sarplera lana*) is a quantity of Wooll. This in Scotland is called Serplathe and containeth fourescore stone, for the Lords of the Councell in anno 1527. decreed foure Serplithes of packed Wooll to containe fixteenscore stone of wooll, by the traffique of Merchants now used. The Merchants use to fraught for their goods to *Flanders*, by the Sacke to *France*, *Spaine*, and *England*, by the Tunne, and to *Dancken*, and the Easterne Seas, by the Serpliath. *Skene de verborum significatione*, verbo *Serpliathe*, with us England a load of Wooll (as I have bene informed) consisteth of eighty Todde, each Todde consisting of two stone, and each stone of foureteen pound. And that a Sacke of VVooll is in

common account equall with a Load: and a Sarplar (otherwise called a pocket) is halfe a Sacke. Further that a packe of Wooll is a Horse load, which consisteth of seventene stone, two pounds. *Fleta lib.* 2. cap. 12. saith, that all our English measures are compounded of the penny sterling, which weigheth 3 2. VVheate cornes of the middle sort, and that two of those pence make an ounce, and twelve ounces a pound in weight, or twenty shillings in number, and that eight pound of Wheat maketh a jallon, or a gallon as wee now call it, and eight gallons a bushell, and eight bushels a common quarter. Also that fifteene ounces of the quantity aforesaid doe make a Merchants pound. And that 12. such pound and a halfe, make a stone, and that foureteene stone make a waigh, and that two waighes or twenty eight stone, make a sacke of Wooll, which ought to weigh a quarter of VVheate, and that 12. Sackes make a Last. So that a waigh, and a Sarplar seemeth to bee all one, but that the Sarplar is the case, and the weigh respecteth the quantitie of the VVooll it selfe: And that a load and a sacke is all one.

Saunkefin, is a phrase used by *Britton*, cap. 119. for the determination, or finall end, of the lineall race, or descent of a kin-

dred. It seemeth to come from the French (*Song i. sanguis*) and *Finé. i. finitus.*)

Sauer de default, is word for word, to excuse a default. This is properly, when a man having made default in Court, commerth afterward and alleadgeth good cause, why he did it, as imprisonment at the same time, or such like. New booke of *Entries*, verb. *Sauer de defaults.*

Saufte conduict (*salvus conductus*) is a security given by the Prince, under the broad seale to a straunger, for his quiet comming in and passing out of the Realme, touching which you may see the Statutes. *anno 15. H. 6. cap. 3. & anno 18. ejusdem. cap. 18. & anno 28. Hen. 8. cap. pri.* The forme of this see in the *Registrar* originall, fol. 25.

Stannford, was a man very learned in the common Lawes of the Land, wherein hee wrote two bookes, one termed the plees of the Crowne, the other the Princes prerogative. Hee flourished in the dayes of *Ed. the sixth*, and of *Queene Mary*, being in *Queene Maries* dayes a Judge, and knighted.

Scandalum Magnatum, is the especiall name of a wrong done to any high personage of the Land, as Prelates, Dukes, Earles, Barons, and other Nobles: and also of the Chancellor, Treasurer,

Clerk of the privie Seale, Steward of the Kings house, Justice, of the one bench or of the other, and other great officers of the Realme, by false newes: or horrible and false messages, whereby debates and discords betwixt them and the commons, or any scandall to their persons might arise: *anno 2. R. 2. cap. 5.*

Scavage, otherwise called *Shewage* is a kind of tolle, or custome exacted by Maiors, Shyreenes, and Bailiffes of Cities, and Borough Townes, of Merchants for wares shewed to be soulede within their Precincts. which is forbidden by the Statute. *anno 19. Hen. 7. cap. 8.* It commerth of the Saxon word (*Scawe*) to behold or view, or to shewe, whence is the word (*Scaw-stowe*) a theater or shew place, a beholding place, *M. Verstegan* in his *restitution of decayed intelligences* li-tera S.

Scire facias, is a Writ Judiciall, most commonly to call a man to shew cause unto the Court, whence it is sent, why execution of a Judgement passed, should not be made. This writ is not graunted before a yeere and a day bee passed after the Judgement given, *ould. nat. br. fol. 151.* *Scire facias* upon a fine, lieth after a yeere and a day from the fine levied. Otherwise it is all one with the writ *Habe*

bere facim seisinam. *West. part. 2. simb. titulo fines, sect. 137. See an. 25. Edwardi 3. sta. 5. cap. 2. v. au. 39. Elizabeth cap. 7.* The Register originall and Judiciall also in the Table sheweth many other diversities of this writ, which reade. See also the new booke of Entries. verb. Scire facias.

Scyra. *Cambd. Britan. pag. 103. & 544. See Shyre.*

Scot, seemeth to come of the French (*iscol. i. symbolum*) Rastall saith It is a certaine custome, or common tallage made to the use of the Shyreewe, or his Bayliffes. *Saxon in his description of England. cap. 11.* saith thus: Scot a gadering to worke of Bailes: what he meaneth God knoweth, I thinke the place is corruptly printed. Scot (saith *M. Camden* out of *Mathews of Westm.*) *illud dicitur, quod ex diversis rebus in unum acerum aggregatur.* In the Lawes of William the Conqueror, set forth by *M. Lamberd: fol. 125.* you have these words, *Et omnis Francigena, qui tempora Edwardi propinqui nostri fuit in Anglia, particeps consuetudinum Anglorum, quod dicunt aue blote, & aue scote persoluantur secundum legem Anglorum.*

Scot and Lot anno 33. H. 8. cap. 19. signifieth a customary contribution laid upon all subjects after their hability. *Roger Hoveden* writeth it *Anlote & Anscote,*

in principio Henrici secundi.

Scotall (*scotalla*) is a word used in the Charter of the Forest, c. 7. in these words, as *Papilla oculi* hath them, *parte 5. cap. 22. Nullus Forestarius vel Bedellus, faciat Scotallas vel garbas colligat, vel aliquam collectam faciat, &c. M. Manwood parte pri. of his Forest Lawes. pag. 216.* thus defineth it. A Scotall is where any Officer of the Forest doth keep an ale house within the Forest, by colour of his Office, causing men to come to his house, and there to spend their money, for feare of having displeasure. It seemeth to be compounded of *Scot* and *Ale*.

Scutagio habendo, is a writ that lieth for the King or other Lord against the Tenent, that houldeth by Knights service, (wherein homage, fealtie, and escuage be contained) being to make a voyage to warre against the Scots, or French men. For in those cases, this writ issueth out to all such tenents to serve by themselves, or a sufficient man in their place, or else to pay, &c. See *Fitz. nat. br. fol. 83.* It is used in the Register originall, for him to recover escuage of others, that hath either by service or fine performed his owne to the King. *fo. 88. a.*

Sealer (*Sigillator*) is an Officer in Chancerie, whose duty is to

scale the Writs and Instruments there made.

Seane fish, anno 1. *Jacob. fef. 1. ca. 25.* *Seane fish. ibidem*, seemeth to bee that fish which is taken with a very great and long net called a Seane.

Second deliverance (*secunda deliberatione*) is a Writ that lyeth for him who after a returne of Catell replevied adjudged to him that distreined them, by reason of a default in the partie that replevied, for the repleavying of the same Cattell againe, upon securitie put in for the redelivery of them, if in case the distresse bee justified. New Booke of Entries *verbo*, *Replevin in second deliverance. fol. 522. col. 2. v. Dyer fol. 41. num. 4. 5.*

Seffa ad Curiam, is a writ that lyeth against him, who refuleth to performe his suit either to the County, or Court Baron. *Fitzb. nat. br. fol. 158.*

Seffa facienda per illum qui habet emiciam partem, is a Writ to compell the Heire that hath the elders part of the coheires, to performe service for all the Coparceners, *Regist. orig. fol. 177. a.*

Seffa molendini, is a VVrit ly- ing against him, that hath used to grinde at the Mill of B. and after goeth to another Mill with his Corne. *Register originall fol. 153. Fitzb. nat. brev. 122.* But it seemeth by him, that this writ

lyeth especially for the Lord against his franke Tenents, who hold of him by making suite to his Mill, *eadem*. See the new book of Entries. *verbo seffa ad molendinum*. By likelihood this service is also in France. For *Baldwinus ad titulum de servitutibus prediorum, in Institut.* hath these words: *Bannalis mola nova & barbare servitutis species est, que hodie passim rustici coguntur una mola, quam bannalem vocamus, unoque furno uti ad quastum Doastni, qui fortasse preest jurisdictioni ejus pagi.*

Seffam proferre, est testimonium legalium hominum qui contractui inter eos habito interfuerint presentes producere. *Fleta lib. 2. cap. 63. §. Nullus.* And *seffa* is used for a witnesse, *Idem. lib. 4. cap. 16. §. final.* *Habes tamen seffam unam vel plures, &c.*

Seffa ad Justitiam faciendam, is a service due for a mans fee to bee performed, being by his fee bound thereunto. *Bracton lib. 2. cap. 16. num. 6.*

Seffa unica tantum facienda pro phuribus hereditatibus, is a Writ that lyeth for that Heire that is distreined by the Lord to more suits than one, in respect of the Land of divers Heires descended unto him. *Register originall folio 177. a.*

Seffis non faciendis, is a Writ, that lyeth for one in wardship

to bee delivered of all suites of Court during his wardship, *Register origin. fol. 173. b.* See other use of this writ, *codem, fol. 174.* touching women that for their dower ought not to performe suit of Court.

Secunda superoneratione pasturae, is a writ that lyeth, where measurement of pasture hath been made, and he that first surcharged the common, doth again surcharge it, the measurement notwithstanding. *Registr. origin. fo. 157. old nat. br. fo. 73.*

Secundarie, (*secundarius*) is the name of an Officer next unto the chiefe Officer: as the Secundarie of the fine Office: the Secundarie of the Counter: which is (as I take it) next to the Shireeve in London in each of the two Counters. Secundarie of the Office of the privie seale. *anno 1. Ed. 4. cap. 1.* Secundaries of the Pipe two: Secundarie to the Remembrancers, two, which bee Officers in the Exchequer. *Camden. p. 18. 113.*

Securitatem inveniendi, quod se non divertat ad partes externas sine licentia Regis, is a writ that lyeth for the King against any of his subjects, to stay them from going out of his Kingdome. The ground whereof is this, that every man is bound to serve and defend the Common-wealth, as

the King shall thinke meet. *Fitz. nat. br. fo. 85.*

Securitate pacis, is a writ that lyeth for one, who is threatened death or daunger, against him that threatneth, taken out of the Chancerie to the Shyreue: whereof the forme and farder use you may see in the *Register orig. fo. 88. b.* and *Fitz. nat. brev. fo. 79.*

Se defendendo, is a plea for him that is charged with the death of another, saying that he was driven unto that which he did, in his owne defence, the other so assaulting him, that if hee had not done as hee did, hee must have bene in perill of his owne life. VVhich danger ought to bee so great, as that it appeare inevitable. As *Stawnsford* saith in his plees of the Crowne. *lib. 1. cap. 7.* And if hee doe justifie it to bee done in his owne defence, yet is he driven to procure his pardon of course from the Lord Chancellor, and forfeiteth his goods to the King. As the said Author saith in the same place.

Seignior (Dominus) is borrowed of the French (*seigneur*) It signifieth in the generall signification, as much as Lord: but particularly it is used for the Lord of the fee, or of a mannor, even as (*Dominus*) or (*seior*) among the Feudists, is hee, who granteth a fee or benefit out of his Land

to another. And the reason is (as *Hotoman* saith) because having graunted the use and profit of the land to another: yet the propertie. i. (*Dominium*) he still retaineth in himselfe. See *Hotoman in verbis feudal. verbo Dominus, & Senior*. Seignior in grosse, seemeth to be hee that is Lord, but of no mannor, and therefore can keepe no Court. *Fitz. nat. bre. fol. 3. b.* See *Signorie*.

Seignourage, anno 9. H. 5. stat. 2. cap. 1. seemeth to bee a regalitie or prerogative of the King, whereby hee challengeth allowance of gold and silver brought in the masse to his Exchange, for coyne.

Seignorie (*Dominium*) is borrowed of the French (*seignury. i. ditio, dominatus, imperium, principatus, potentatus.*) It signifieth peculiarly with us, a Maner, or Lordship. *Seignorie de soke mans. Kitchin. fol. 80.* Seignorie in grosse, seemeth to bee the Title of him that is not Lord by meanes of any maner, but immediately in his owne person: as *Tenure in capite*, whereby one holdeth of the King, as of his Crowne, is *seignorie in grosse*: because it is held of the King for the time being, and not of the King, as of any honour, maner, &c. *Kitchin, fol. 206.* See *Seignior*.

Seisin (*seisina*) is borrowed of

the French (*seisine. i. possessio*), and so it signifieth in our common Law: and to *seise*, is to take possession. *Primier seisin* (*prima seisin*) is the first possession. See *Primier seisin*, of the French word (*seisir*) is made a Latine (*seisire*), used by the Canonists, cap. *Clericis*. §. *Nos igitur non semel de immunitate Ecclesie*, num. 6. as also the Civilians. *Guido Pap. singula. 865.* *Seisire est etiam possessionem tradere. Tiraquellus in Tractatu. Le mort saisit le vis. pag. 53. num. 3.* *Seisin* with our common Lawyers, is two-fold: *seisin in fact*, and *seisin in Law*. *Perkins Dower. 36. 370.* *Seisin in fact* is, when a corporall possession is taken: *seisin in Law*, is when something is done, which the Law accompteth a *seisin*, as an Inrolment. *Seisin in Law*, is as much as a right to Lands and tenements, though the owner bee by wrong disseised of them. *Perkins Tenens per le courtsele. 457. 478.* And it seemeth by *Ingham*, that he who hath had an houres possession quietly taken, hath *seisin de droit*, & *de claime*, whereof no man may disseise him by his owne force or subtilty, but must bee driven to his action. §. *Bref de novel disseisin. Sir Edward Cooke lib. 4. calleth it seisin in Law*, or *seisir actuell. fol. 9. a.* The Civilians call the one *civilem possessionem*, the other *naturalem*.

Sesina habenda quia Rex habuit annum, diem, & vastum, is a Writ that lyeth for delivery of *seisen* to the Lord, of his Land, or Tenements that formerly was convicted of felony, after the King in the right of his Prerogative hath had the yeare, day, and wast. *Reg. orig. fol. 165. a.*

Selion (*selio*) is borrowed of the French (*sello* i. *terra elata inter duos sulcos* in Latine (*Porca*) in English a Ridge, or land. It signifieth even so with us also: and is of no certaine quantity, but sometime containeth an Acre, sometime halfe an Acre, sometime more, and sometime lesse. *West. parte 2. Symbol. titulo Recovery. sect. 3.* Therefore *Crompton* in his jurisdictions: *fol. 221.* saith that a selion of Land cannot be in demaund, because it is a thing uncertaine.

Seneschall (*senescallus*) is a French word, but borrowed from Germany, being as *Talim* saith) compounded of *Schal* i. *servus*, aut *officialis*, and *Gesnid* i. *familia*) we English it it a Steward. As the high Seneschall, or Steward of England: *pl. cor. fol. 152.* High Seneschall or Steward, and South Seneschall, or Understeward. *Kitchin. fol. 83.* is understood for a steward, or understeward of Courts. *Seneschal de l'hostel de Roy*, Seward of the Kings household. *Cromptons*

Jurisdictions. folio 102.

Senescallo & Mareshallo quod non teneant placita de libero tenemento, &c. is a writ directed to the Steward or marshall of England, inhibiting them to take cognizance of any action in their Court, that concerneth either Freehold, debt, or Covehant. *Register original. folio 185. a. 191. b.*

Senie, aliàs, *Sene* (*senā* is a leafe of a medicinable herbe, that bringeth forth stalkes of a cubite high, purging Phlegmatick Cholerick, and also Melancholicke humours, without great violence. The farther use whereof you may reade in *Gerrards Herbal* lib. 3. cap. 8. This is mentioned among other Drugges and spices to bee garbled, *anno 1. Jacob. cap. 19.*

Septuagesima, is a Sunday certaine, and alwayes the third Sabbath before Shrove-lunday, from the which untill the Octaves after Easter, the solemnizing of marriage is by the Canon Lawes forbidden. The reason whereof is given, for that all this time untill Easter, is a time of mourning for the fall of *Adam*, and for the miserie of man thereof insuing. And Easter with the Octaves thereof is a time of Christs glorification, and so of ours also in him, for his, and by him our conquest over death and sinne.

And that therefore all carnall affection ought, during that space, to be wholly mortified in us. See *Quinquagesima*, see *Advent*, see *Rogation weeke*.

Sequitur sub suo periculo, is a Writ, that lyeth, where a summons *ad warrantizandum* is awarded, and the Sheriffe returneth, that hee hath nothing whereby hee may bee summoned. For then goeth out an (*Alias*) and (*Pluries*). And if hee come not at the (*Pluries*) then shall goe out this writ. *Old nat. brev. fol. 163.*

Sequestration (*sequestratio*) is a separating of a thing in controverlie from the possession of both those that contend for it. and it is double: voluntary, or necessary. Voluntarie, is that which is used by the consent of each partie. Necessary is that which the Judge of his authority doth, whether the parties will or not. It is used also for the act of the ordinary disposing of office, the goods and chattells of one deceased, whose estate no man will meddle with. *Dyer. fol. 232. num. 5. & fol. 256. num. 8. & fol. 160. num. 42. & fol. 271. num. 26.* as also in the gathering of the fruits of a Benefice voide, to the use of the next Incumbent. *anno 28. H. 8. cap. 11. Fortescue, cap. 50.* and in divers other cases.

Sequestro habendo, is a writ judiciall for the dissolving of a sequestration made by the Bishop, at the Kings commandement of the fruits of a Benefice, thereby to compell the Parson to appeare at the suite of another: for the Parson upon his appearance may have this writ, for the release of the sequestration. *Register Judicial. fol. 36. a.*

Sergeants (*serviens*) commeth of the French (*sergeant. i. satellites, accensus*) a man of the Gaurd, a kind of Souldier, so called, because hee was *sepe accitus ad res necessarias in exercitu peragendas*. *Calepin. M. Skene de verb. signif. verb. Serjant*, hath these words: *Sergeant* commeth from *Sergent* *que est vox composita de (Serr)* *quod est, includere, & gent. quod pro gente, populo vel plebe usurpatur. Itaque Serjandus dicitur, qui jussu magistratus, quemlibet de populo reum criminis in carcerem conjicit, seu includit.* This word *Sergeant* is diversly used in our Law, and applied to sundry offices and callings. First a *Sergeant at Law* (or of the Coyse) is the highest degree taken in that profession, as a Doctor in the civill Law. And to these, as men best learned, and best experienced of all others, is there one Court severd, to plead in by themselves: (and that is the Court of Common-plees) where the Common lawe

Law of England is most strictly observed. These are made by the Kings *mandat*, or Writ, directed unto them, commanding them upon a great penaltie, to take upon them that degree by a day certaine therein assigned. *Dyer fol. 72. num. 1. see Counte.* And of these one is the Kings Sergeant, being commonly chosen by the King out of the rest, in respect of his great learning, to pleade for him in all his causes: as namely, in causes of treason. *pl. cor. lib. 3. cap. prin.* And of these there may be more if it so please the King. This is called in other Kingdomes, *Advocatus Regis.* *Cassian. de consuet. Burgund. pag. 850.* With what solemnitie these Sergeants be created, reade *Fortescue, cap. 50.* This word Sergeant seemeth to bee used in *Britton* for an Officer belonging to the Countie: who in his first chapter speaking of Appeals made before the Coroner, hath these words in effect: And then let the Coroner cause his appeale to be entred, and the names of his sureties. And afterward let commaundement bee given to the Sergeant of the Countie, where the felonie was committed, that hee have the bodie of the persons appealed at the next Countie. And it is probable, that this Officer was all one with him, whom *Brat-*

ton in his fifth booke *cap. 4. num. 2* calleth *Servientem Hundredi*: of whom hee hath these words: *Post probationem defalta, faciet serviens Hundredi incontinenti summotionem, vel affidet partibus diem, si presentes sint, ad proximum Comitatum, &c.* This is like to be the same Officer, which in ancient time was called the Bayliffe of the Hundred, who (as is declared in *Bayliffe*) had the like authoritie in his Hundred, that the Shyreve had in the Countie, though inferiour to him, and to be controlled by him, as appeareth by divers ancient prebidents set downe by *Kitchin* in his *Traetat of Returnes in Court Hundred, Court Baron, &c.* I read also in *Bracton lib. 3. tractat. 2. cap. 28.* Of the Kings Sergeant, who is like to be also an Officer in the Countie, in these words: speaking of a woman ravished, and what shee ought to doe for the pursuite of the Ravisher, & sic ire debet ad prepositum Hundredi, & ad servientem Domini Regis, & ad coronatores, & ad vicecomitem & ad primum comitatum faciat appellum suum. And againe *cod. l. c. 32.* in these words: & si sine se & cognoverit se inde esse latronem coram vicecomite, vel coronatore, vel serviente Domini Regis, &c. And againe, *lib. 5. tract. 3. cap. 4. num. 8.* in these words: *Quid si serviens Domini Regis d. derit partibus diem*

ad Comitatum, &c. And by *Fleta* it seemeth that this terme was generall to the Shyreve, Coroner, and Bayliffes of Counties, who in his sixth booke. *cap. 3. §. 1.* hath these words: *Com qui ingitur senserit dominum suum vel curiam suam sibi de recto defecisse, tunc ostenso hoc vice comiti, statim precipiat ballivo Hundredi, vel itineranti, vel alteri servienti Regi, quod assumptis sibi liberis, & legalibus hominibus de vicineto illo, ad curiam illius domini, si quem habuerit accedat, &c.* And to helpe this probabilitie, I finde that the steward of a manner is termed *serviens manerii*. *Coke Vol. 4. Copybould cases. fol. 21. a.* Then is there a Sergeant at armes (*serviens ad arma*) whose office is to attend the person of the King, *Anno 7 H. 7. cap. 3.* to arrest traitours, or men of worth or reckning, that doe, or are like to contemne messengers of ordinary condition for other causes, and to attend the Lord high Steward of England sitting in judgement upon any Traitor, and such like. *pl: cor. lib. 3. cap. pri.* Of these by the statute *anno 13. R. 2. cap. 6.* there may not be above thirtie in the Realme. This sort is called *delesee*. In the customary of *Nor. car. 5.* which reade. There be also some two of these Sergeants of the Parliament, one for the upper, another for the lower

house, whose office seemeth to serve for the keeping of the doores, and the execution of such Commandements, especially touching the apprehension of any offender, as either house shall thinke good to enioyne them. See *Cromptons Jurisdctions. fol. no. 10.* See also *Vowels, alias Hookers* booke of the order of the Parliament. There is one of these that belongeth to the Chauncery, who is also called a Sergeant of the Mace, as the rest may be, because they carry Maces by their office. Hee of the Chauncery attendeth the Lord Chaunceler, or Keeper in that court, for the means to call all men into that court, is either by this officer, or by *sub p. 10. West. pa. 2. sym. tit. Chancery, Sect. 17.* Then be there sergeants that be the chief officers in their severall functions within the Kings household, which bee chiefe in their places, of which sort you may read many named in the statute *anno. 33. H. 8. cap. 12.* There is also a more base kind of sergeant of the Mace, whereof there is a troupe in the City of London, and other townes incorporate, that serve the Maior or other head officer, both for mesniall attendance, and matter of Justice. *Kitchin. fol. 143.* And these are called *Servientes ad clavam*. New book of *Entries. ver. scire faciat:*

cias : in Mainperners. fol. 538. cap. 3.

Sergeantie (*Serriantia*) cometh of the French (*Sergeant. i. satellites*) and signifieth in our common law, as service due to the King from his tenent holding by such service. For this service cannot be due to any *L.* from his Tenent, but to the King only. And this is either grand, or petit, as you shal find at large set down in Chivalrie. Of this also you may read *Br. l. 2. c. 16. & c. 37 n. 5. 4. & Brit. c. 66. n. 1. & 2.* See *Service. M. Skene de ver. signif.* calleth this *Sergeanterie*, defining and dividing it as we doe in England.

Servientibus, are certaine writs touching servants, and their Masters violating the statutes made against their abuses, which see in the *Register original. fol. 189. & 190. & 191.*

Service (*servitium*) though it have a general signification of due-tie toward them unto whom wee owe the performance of any corporall labor, of function: yet more especially in our common law, it is used for that service, which the tenent by reason of his fee, oweth unto his Lord. And so doth it signifie among the Feudists also. For *Hotomon* thus defineth it. *Servitium est munus obsequii clientelarii. verbo Servitium. De verbis feudal.* or rather declareth it so to bee defined. *lib. iud. 2. titulo 51. Sect.*

8. It is sometime called *servage* as *anno i. R. 2. cap. 6.* This service is either militarie, and noble, commonly called *Knights service*: or clownish and base, commonly called *socage*, of both which read *Chivalry*, as also *socage*. And *Bracton lib. 2. cap. 16.* Service is divided by *Britton* into personall, and reall. *cap. 66.* where he maketh wards, marriages, homage, Relicfes, and such like, to be reall services: personall, I imagine, may these be called, that are to be performed by the person of the Tenent, as to follow his Lord into warre, &c. The Civilians divide *munera* in this sort, either in *personalia.* or *patrimonalia.* Then *Bracton ubi supra. num. 7.* distributeth *servitium* in *intrinsicum*, & *extrinsicum* aliàs *forinsecum.* & *medium.* *Servitium intrinsicum* is that, which is due to the capitall Lord of the manner, *Forinsecum* is that which is due to the King, and not to the capitall Lord, but when he goeth in his owne person to serve: or when hee hath satisfied the King for all services whatsoever. And againe in the same place hee saith, it is called *Forinsecum, quia fit, & capitur foris, sive extra servitium, quod fit Domino capitali.* See *Forin service.* Of this read him *ubi supra*, more at large, and *Fleta, lib. 2. cap. 14. §. Continetur.*

Servitia quæ nec intrinseca nec forinseca sunt. Bract. handleth in the same chap. nu. 8. saying thus: *sunt etiam quedam consuetudines, quæ nec dicuntur intrinseca, nec forinseca: sed sunt quedam servitia concomitantia, sicut servitia regalia, & militaria, & etiam homagia: & ideo in chartis non sunt exprimenda. Quia si homagium præcesserit, & regale servitium, sequitur exinde quod ad capitalem Dominum pertinebit Relevium, & custodia, & maritagium: sive servitium sit militare, vel seriantia propter exercitum, &c.* Heere then Reliefe, Ward, and Marriage, bee those services, which hee calleth, *nec intrinseca, nec forinseca, sed concomitantia.* Service is also divided into frank service, and base, or villenous service: the one Bracton, calleth (*liberum servitium*) the other (*Servitium villanum*) or (*villenagium*) lib. 2. cap. 8. num. pri. This villenagium is Socage in base tenure, as to dung the Lords ground, to serve him so many dayes in harvest, to plash his hedges, &c. or else copy hold. All other services seeme to bee frank. Service consisteth some in feilance, some in render. Perkins Reservations. 696. Service seemeth also to bee divided into continuall, otherwise annuall, and casuall, or accidentall. An example of the former is the feilfin of rent, and of the other, sei-

fin of reliefe. Sir Ed. Cookes Reports. lib. 4. Bevis case. fol. 9. a. See Copy hold. See Soccage. See Ayde.

Service secular, anno 1. Ed. 4. ca. 1. which may be contrary to spirituall, viz. the service divine commanded to spirituall men by their founders.

Servitors of Bills, seeme to bee such servants or messengers of the Marishall belonging to the Kings bench, as were sent abroad with Bills, or Writs to summon men to that Court, being now more ordinarily called *Tipstaffs*.

Servitium acquitandis, is a Writ Judiciall, that lyeth for one distreined for services by John, which oweth and performeth to Robert, for the acquitall of such services. Register Judiciall, fol. 27. a. & 36. b.

Sessions (Sessiones) signifieth in our common Law a sitting of Justices in Court upon their commission: as the Sessions of oyer, and terminer. pl. cor. fol. 67. Quarter Sessions, otherwise called generall Sessions. anno 5. Elizabeth cap. 4. or open Sessions. ibidem. Opposite whereunto are especiall, otherwise called privie Sessions, which are procured upon some speciall occasion, for the more speedie expedition of Justice in some cause. Cromptons Justice of peace. fol. 110. what things

things bee inquirable in generall Sessions: see *Cromptons Justice of peace*, fol. 109. Petit Sessions, or Statute Sessions, are kept by the high Constable of every Hundred, for the placing of Servants, *an. 5. Eliz. ca. 4. in fine.*

Sessour, *an. 25. Edw. 3. cap. 6.* seemeth to signifie so much as assessing or rating of Wages at this day.

Set Clothes, *anno. 27. Henric. 8. cap. 13.*

Setwell, Valeriana, is a medicinall herbe, the nature and divers kinds whereof you have in *Gerards herball*, lib. 2. *cap. 424.* The roote of this is mentioned among drugges to be garbled, *an. 1. Jacob. cap. 19.*

Severance, is the singling of two or more, that joyne in one Writ, or are joynd in one Writ. For example, if two joyne in a Writ *de Libertate probanda*, and the one afterward bee nonsuited, here severance is permitted; so that, notwithstanding the nonsuit of the one, the other may severally proceed. *Fitzherbert, nat. brev. fol. 78. I. K.* Of this see *Brooke, titulo, Severance & Summons, fol. 238.* For it is harder to know in what cases severance is permitted, then what it is. There is also severance of the Tenents in an Assise, when as one or two, or more disseisors appeareth upon the Writ, and not

the other. New Booke of *Enterries*, fol. 81. col. 4. and Severance in Attaints. *cod. fol. 95. col. 2.* And severance in debt. *verbo debt. fol. 220. col. 1.* see the said Book, *verbo, Severance.*

Generall taile (*tallium separatum*) (is that whereby land is given and entayled severally to two. For example, land is given to two men, and their wives, and to the heires of their bodies begotten: the Donees have joynt estate for their two lives, and yet they haue severall Inheritance: because the issue of the one shall have his moyetie, and the issue of the other, the other moyetie, *Kitchin. ibid.*

Severall tenancie (*tenura separata*) (is a Plee, or exception taken to a writ, that is laid against two as joynt, which are severall, *Brooke titulo, Severall tenancie, fol. 237.*

Sewantly woven, *an. 35. E'iza. cap. 10.*

Sewer, hath two significations with us, one applyed to him that issueth or commeth in before the meat of the King, or other great personage, and placeth it upon the table: the other to such passages, or gutters as carry water into the sea or river, in Lawyers Latine called *Sewera*, *an. 6. H. 6. c. 5.* which is also used in common speech for commissioners authorised under the broad seale to see draines, and ditches,

ditches well kept, and maintained in the Marish and Fenne Countries, for the better conveyance of the water into the Sea, and the preserving of the grasse for feede of Cattell. *stat. anno 6. H. 6. cap. 5.* It is probable to bring this word from the French (*issir*) or (*issue*) as if we should call them (*Issuers*) because they give issue or passage to the water, &c. And the Latine word (*suera*) sometime used in these commissions for these draines, is a competent reason of this conjecture: See *Fitz. nat. brev. in Oyer and Terminer*. Yet I finde in an old French Booke containing the Officers of the King of Englands Court as it was Aunciently governed, that hee whom in Court wee now call *Sewer*, was called (*Assesseur*) which may seem to come from the French (*Assesseur*) wherein his Office in setting downe the meate upon the Table is well expressed. And *Sewer* as it signifieth an officer, is by *Fleta* latined *Assessor*: li. 2. ca. 15. All which argueth that the descent of this word is from the French (*Assesseur*) as signifying a disposing or placing of any thing, or (as wee say in English) an assailing of any person toward the performance of a durie.

Sexagesima. See *Septuagesima*.

Shmuckes. See *Furre*.

Shares. See *Flotzon*.

Shewing, is to be quit of attachment in any Court, and before whomsoever in plaints shewed and not avowed. New exposition of law termes. *verbo*, *Shewing*. See *Scavage*.

Shipper. anno 1. *Jacob. ses. 1. ca. 33.* is a Dutch word signifying the Master of the ship.

Shire (*Comitatus*, *Shira*) is a Saxon word, signifying *Satrapiam*, of the verbe) *scyran*. i. *partiri*. (*Lamberd*, in his explication of Saxon words. *verbo Centuria*. The word is in ule so rise, that every childe understandeth it. Who first thus divided this land into shires, appeareth by *M. Camdens Britan. pa. 102.* in these words. *Nec dum tamen florente Heptarchia, Anglia ita in Comitatus divisa, (sic enim vulgò vocant) sed postea, cum solus Aluredus rerum potiretur. Ut enim Germani majores nostri, teste Tacito, jura per pagos, vicosque reddebant, & centeni ex plebe comites ad rem administrandam adjungebantur: sic ille (ut in gulfis Croulandensis verbis utar) primus Angliam in Comitatus divisi, quod indigenae rapinas committerent exemplo & colore Danorum, Comitatus porro in Centurias i. Hundreds, & Decimas. i. Tythings, distribui fecit: praecepitque ut omnis indigena in aliqua esset Centuria, & Decima. Praefectos etiam provinciarum,*

vinciarum, qui antea *Vicedomini* vocabantur, in duo officia divisit, viz. *Judices*, nunc *Iusticiarios* : & *Vicecomites*, qui adhuc idem nomen retinent. See the rest.

Sheriffe (*Vicecomes*) is compounded of these Saxon words, (*Scyre*. i. *satrapia*) and (*Reve*). i. *praefectus*) and accordingly he is the chiefe Officer under the King of his Shire, or County. See *Ferne in Ladies Nobility*. pag. 12. *M. Camden*. pag. 104. Thus describeth his Office : *Singulis vero annis, nobilis aliquis ex incolis praeficitur, quem vice comitem, quasi vicarium comitis, & nostrâ linguâ Shiref. i. Comitatus praepositum vocamus : qui etiam comitatus, vel provincia Quæstor rectè dici potest. Ejus enim est publicas pecunias provincie sue conquirere, multas irrogatas, vel pignoribus ablatis colligere, & arario inferre, Judicibus praesto adesse, & eorum mandata exequi, duodecim viros cogere, qui in causis de facto cognoscunt, et ad Judices referunt (Judices enim apud nos, juris solum, non facti sunt Judices) condemnatos ad supplicium ducere, & in minoribus litibus cognoscere, in majoribus autem jus dicunt iusticiarii, quos itinerantes ad Assisas vocant, qui quotannis hos Comitatus bis adveniunt, ut de causis cognoscant, & de incarcerationis sententiam fecant. Henricus secundus hos Itinerantes instituit, vel potius restituit. Ille (ut inquit Marheus*

Parisiensis) consilio filii sui & *Episcoporum* constituit *Iusticiarios* per sex partes regni, in quâ ibet partes tres, qui jurarent quod cuilibet jus suum conservarent illesum. Of the antiquitie and authoritie of this Officer, reade *Sir Edward Cookes Reports lib. 4. Mittons case*. The manner of appointing these Sheriffes in *Henry the sixth* his dayes, See in *Fortescue*, cap. 24. fol. 53. b. The name *Vicecomes* commeth from the Normans, as *Shyreve* commeth from the Saxons. For in the fifth Chapter of the *Grand Customary*, you have (*Viconte*) which the Latine interpreter turneth (*Vicecomitem*) whose Office you shall finde in that chapter to bee very like unto ours. The forme of the *Shyreeves* oath, see in the *Register Originall*. fol. 331. b. Of this reade *Master Skene de verborum significat. verbo Shyreève* : where hee largely describeth the Office of the *Shyreeve* in Scotland, in a discourse worth the reading.

Shyreève of *Winchester* & of *Essex*. anno 21. R. 2. cap. 10. & 11.

Shire Clerke, seemeth to bee the *Undershyreeve*. anno 11. H. 7. ca. 15. It is used sometime for a Clerke in the County Court, Deputy to the *Undershyreeve*. See *Sir Edward Cookes 4. books of Reports in Mittons case*.

Shire mote, See *Turce*.

Shorling, and *Morling* seeme to bee words to distinguish Fells of sheepe : as if *Shorling* should signifie the Fells after the Fleeces bee shorne off the sheeps back, and *Morling* the Fells fleane off after they be killed or die alone. *Anno 3. Edw. 4. cap. prim. & anno 4. ejusdem, cap. 3. & anno 12. ejusdem, cap. 5. & anno 14. ejusdem, cap. 3.*

Shot, commeth of the Saxon word, *scate*, signifying *pecuniam aut vectigal*. Lamberds explication of Saxon words, verbo *Primitia*.

Sbr of metall.

Sicut alás is a Writ sent out in the second place, whereas the first sped not. *Cooke libro quarto folio. 55. b.* It is so called of these words expressed in it. For example. *Jacobus Dei gratia, &c. vicecomiti Kant salutem: Precipimus tibi (sicut aliàs precipimus) quod non omittas propter aliquam libertatem in Balliva tua, quin eam ingrediaris, & capias. A. B. de C. in Comitatu tuo Labourer, &c.* as in the first *capias*. *Lamb.* in his tractate of Processes in the end of his *Eirenarcha*.

Sidemen, aliàs *Quest men*, bee those that are yearly chosen according to the custome of every Parish, to assist the Church-wardens in the inquiry and presenting such offenders to the Ordinary, as are punishable in the

Court Christian.

Significavit, is a Writ, *de excommunicato capiendo*, which issueth out of the Chauncery upon a certificate given by an ordinary of a man that standeth obstinately excommunicate by the space of fourty dayes, for the laying him up in prison without Bayle, or Mainepriſe, untill hee submit himself to the authoritie of the Church. And it is so called, becaule of the word (*significavit*) mentioned in the writ (*De excommunicato capiendo*) which have relation to the certificate, sent into the Chauncery by the Ecclesiasticall Judge. There is also another writ within the *Regist. orig.* of this name, *fol. 7. a.* directed to the Justice of the bench, willing them to stay any suite depending betweene such and such, by reason of any excommunication alledged against the plaintiffe : becaule the sentence of the Ordinarie that did excommunicate him, is appealed from, and the appeale yet hangerh undecided, Which see : and see *Fitzher. nat. br. De excommunicato capiendo, fol. 62. N.* but especially 66. *A.* where you may find writs of this name in other cases.

Sine assensu capituli, is a writ that lieth in case where a Deane, Bishop, Prebendarie, Abbot, Prior or Master of Hospitall, alieneth the

the land held in the right of his house, without the consent of the Chapter, Covent, or Fraternitie. For in this case his succesor shall have this writ. *Fitz. nat. br. fol. 195.*

Si non omnes, is a Writ of association, whereby if all in commission cannot meet at the day assigned, it is permitted, that two or more of them may finish the business. See *Association*. And *Fitz. nat. brev. fol. 85. & III. C. and Register origin. fol. 202. 206. & 124.*

Si recognoscant, is a Writ that lyeth for a Creditour against his Debter for money numbred, that hath before the Shyreve in the Countie Court, acknowledged himselfe to owe unto his Creditor such a summe received of him in *numeratis pecuniis*. The forme of the Writ is this: *Rex Vicecomiti salutem. Prec. tibi quod si A. recognoscit se debere R. 40. solid. sine ulteriori dilatiene, tunc ipsum distringat ad predictum debitum eidem R. sine dilatione reddendum. Teste, &c. Old. nat. brev. fol. 68.*

Skawe. anno 4. Ed. 4. cap. 1.

Skyvinage. anno 27. H. 6. cap. 2. a proper name, signifying the precincts of *Calix*.

Sluse (exclusa) is a frame to keepe, or let water out of a ground.

Soc (Soca) is a word signi-

fying a power, or libertie of Jurisdiction, as appeareth by these words out of *Bracton*, *Sunt quidam Barones, & alii libertatem habentes, sc. : soc, & sac. Tol & Thean, Ansfanghese, & Ut-fanghese, & isti possunt judicare in Curia sua, cum qui inventus fuerit infra libertatem suam seisisus de aliquo latrocinio manifesto. & li. 3. Tractat. 2. cap. 8.* In the lawes of King Edward set out by *M. Lamberd, fol. 132.* you have these words: *Socha est quod si aliquis querit aliquid in terra sua, etiam furtum, sua est Justicia, si inventum fuerit, an non. Saxou in the description of Britany, cap. 11.* saith, that Sock is a suit of Court and that thereof cometh *Soken*. But the signification of the word (as I have beene credibly informed) is as much as *Inquisitio* which wee in moderne English, terme (seeking.) Of this (*Sok*) *Skene de verborum signific.* speaketh to this effect. *Sok* is an old word used in Charters and feofments, which in sundry old Bookes containing the municipall Law of this Realme, is called *Seſſa de hominibus suis in curia, secundum consuetudinem Regni*. So after my opinion hee that is infeoffed with *Sok* (which now we call *Seit* (but wee in England *Suite*) hath power to hold Courts within his owne Baronie, in which, *homines sui*

should give *Soyt*. Thus farre *M. Skene*. Of this *Pleta* hath thele words. *In bujusmodi verò maneris* (speaking of the Kings Mannors) *erant olim liberi homines libere tenentes, quorum quidam cum per potentiores è tenementis suis ejecti fuerant, & eadem postmodum in villenagium tenenda resumpserunt: & quia bujusmodi tenentes cultores Regis esse dinoscuntur, eis provisum fuit quies ne sectas facerent ad Comitatus vel Hundredos, vel ad aliquas inquisitiones, Assisas vel Juratas, nisi in Manerio tantum, dum tamen pro terra, quorum congregationem tunc socam appellarunt; & hinc est quòd Socmanni hodie dicuntur esse. A soco enim derivantur, quorum tenementa sunt villenagium domini privilegiatum, & ideo dicuntur glebe ascripti ii, eo quòd ab bujusmodi glebis amoveri non deberent, quamdiu solverent debitas pensiones: nec compelli poterunt ad bujusmodi tenementa tenenda contra suas voluntates, sed quòd corpora sua sunt libera. Nec obstat longa servitutis possessio ad libertatem extinguendam, quamvis ad mercedem sanguinis sui compulsus fuerit quis pro tenemento reddendo. Nulla enim servitus ratione prescriptionis temporis potest liberum sanguinem in servitutem redacere, non magis quam liberum tenementum potest servum in libertatem, &c.* By whose words it appeareth, that *Soca* is nothing

else, but the meeting or assembly of these kinde of tenents in any place within the Mannor or Libertie: wherefore hee that hath *Soc*, may seeme to have such a Manor, such Tenants, and such a Libertie belonging to his Manor and Tenants, as is here described. Here you see diversities of opinions touching this word, one saying that it is a power or libertie to seeke after Theeves and stollen goods within a Manor or Fee, and to doe Justice upon such inquisition; others, that it is a libertie onely to have suiters to his Court; others, as *Fleta*, that it containeth both the former significations, and further that it is taken for the company of Tenants which live within such a Liberty; and are exempted from those common services of the Prince and Countrey whereunto subjects are ordinarily tyed. This kinde of liberty is in divers places at this day in England, and commonly knowne by the name of *soke* or *soken*. See *Soke* and *Sockmanns*.

Soccage (*soccagium*) commeth of the French (*Soc. i. vomer*, a Plowshare or coulter.) It signifieth in our Common Law a tenure of Lands by or for certaine inferiour, or husbandly services to bee performed to the Lord of the Fee. See *Institutes of*

common Law. 31. As I have shewed in (*Chivalrie*,) all services due for land, is either Knights service, or soccage. So then, whatsoever is not Knights service, is soccage: *Bracton* in his 2. booke cap. 35. num. primo describeth it thus. *Dici poterit soccagium à Socco, & inde tenentes qui tenent in Sockagio, Sockmanni dici poterunt, eo quod deputati sunt, ut videtur, tantummodo ad culturam, & quorum custodia, & maritagia ad propinquiores parentes jure sanguinis pertinebit. Et si aliquando inde de facto capiatur homagium, quod plures contingit, non tamen habebit propter hoc Dominus capitalis custodiam, & maritagium. Quia non semper sequitur homagium, licet aliquando sequatur. M. Skene de verborum significatione. verb. Sockmannia, saith, that Soccage is a kinde of holding of lands, when a man is infeoffed freely without any service, ward, reliefe, or marriage, and payeth to his Lord such dutie, as is called petit sergeantie, or when one holdeth land in the name of burgage, or in libera elemosina, or otherwise in blenche ferme, sive nomine alie firme, & oppositur militi, qui tenet per servitium militare. Out of the place above named in *Bracton*, you may finde a division of Soccage, whereby it is termed either *Soccagium liberum*, or villa-*

num; franke or free Soccage, and base, otherwise called villenage. The former is there thus defined. *Soccagium liberum est, ubi fit servitium in denariis Dominis capitalibus, & nihil inde omnino datur ad scutum & servitium Regis.* Where I gather that to bee free soccage which payeth a certaine summe of money to the chiefe Lord in regard of some tillage, or such like, and not of any Sergeantie, or eschuage. And to this effect hee writeth also, lib. 2. cap. 16. nu. 9. &c. unde si tantum in denariis & sine scutagio vel seriantis, vel si ad duo teneatur sub disjunctione, scilicet ad certam rem dandam pro omni servitio, vel aliquam summam in denariis, id tenementum potest dici *Soccagium*: si autem superaddas *Scutagium*, aut servitium regale, licet ad unum obulum vel seriantiam, illud poterit dici feudum militare. This free Soccage, is also called common Soccage, anno 37. H. 8. cap. 20. Soccage in base tenure, or villanum Soccagium, is divided againe in villanum Soccagium, & purum villenagium: Villanum Soccagium est illud, de quo fit certum servitium, idque ratione sui tenementi, non persone sue. Purum villenagium est illud, in quo prestatur servitium incertum et inde terminatum, ubi sciri non poterit vespere, quale servitium fieri debet mane. viz. ubi quis facere tenetur

quicquid ei preceptum fuerit. *Bracton lib. 2. cap. 8. num. 3.* The old *nat. brev. fol. 94.* maketh three parts of this division. *viz.* Soccage of free tenure, Soccage of ancient tenure, and Soccage of base tenure. Soccage of free tenure is (as the booke saith) where a man holdeth by free service of 12. pence by yeere, for all manner of services, or by other services yeerely. Soccage of auncient tenure is of land of auncient *Demesn*, where no writ originall shall bee shewed, but the Writ of Right, that is called *secundum consuetudinem manerii*. Soccage of base tenure is of those that hould in Soccage, and may have none other Writ, but the *Monstraverunt*: and such Sock-men hold not by certaine Service. And for that are they not free Sock-men. Then againe Soccage is divided into foccage in chiefe, and common foccage. Soccage in chiefe or in *capite*, is that which holdeth of the King, as of his Crowne. *Frerog. fol. 41.* Common Soccage is that, which holdeth of any other capitall Lord, or of the King by reason of some honour or manner. *Ibidem.* Burgage is also a kinde of Soccage, See *Burgage*.

Sockmans (Sockmanni) are such tenents as hold their lands, and tenements by Soccage tenure.

And accordingly as you have 3. kinds of Soccage, so be there 3. sorts of Sockmans, as Sockmans of franke tenure. *Kitchin, fol. 81.* Sockmans of ancient *Demesn*, *old. nat. br. fol. 11.* and Sockmans of base tenure, *Kitch. ubi supra.* But the tenents in auncient *Demesn*, seeme most properly to bee called *Sockmans*, *Fitzb. nat. br. fo. 14. B. Brit. c. 66. n. 2.*

Soke, anno 32. H. 8. cap. 15. & cap. 29. Of this *Fleta* saith thus, *Soke significat libertatem curie tenentium quam socam appellamus. l. 1. cap. 47. §. Soke.* See *Roger Hoveden, parte poster. suorum annalium. fol. 345. b.* and See *Soc*.

Soken (Soca) see *Soc.* and *Hamsoken*. *Soken* is latined *Soca*, *Regi. orig. fol. 1. a.*

Sokereve seemeth to bee the Lords rent-gatherer in the *Soke*, or *Soken*, *Fleta, lib. 2. cap. 55. in principio.*

Sole tenent (Solum tenens) is hee or shee which houldeth onely in his or her owne right without any other joyned. For example, if a man and his wife hold land for their lives, the remainder to their son: here the man dying, the Lord shall not have Heriot, because hee dyeth not sole tenent. *Kitch. fol. 134.*

Solicitur (Solicitor) cometh of the French (*Soliciteur*.) It signifieth in our common Law, a man employed to follow suites depend-

depending in Lawe, for the better remembrance and more ease of Attornies, who commonly are so full of Clients and businesse, that they cannot so often attend the Serjants and Councillors, as the case may require.

Solet & debit. See *Debet & solet.*

Solidata terre. See *Farding deal of land.*

Sollace, anno 43. Elizabeth. cap. 10.

Sommons, aliàs summons (summonisio) commeth of the French (*semondre .i. vocare*) It signifieth in our common Law, as much as (*vocatio in ius*) or (*ciatio*) among the Civilians. And thence is our word (*sumner*) which in French is (*semonneur. i. vocator monitor*) The Customary of Normandy for our (*summons* hath *semonsé*) *ca. 61 summons of the Exchequer, anno 3. Edw. 1. cap. 19. & anno 10. ejusdem, cap. 9.* How summons is divided, and what circumstances it hath to bee observed. See *Fleta, li. 6. cap. 6. 7.*

Sollutione feodi militis Parliamenti, and soluzione feodi Burgen. Parliamenti, be Writs whereby Knights of the Parliament may recover their allowance, if it bee denied, *an. 35. H. 8. ca. 11.*

Sontage, Stow. pag. 284. is a taske of fourty shillings laid upon every Knights fee.

Sorting Kersies. 3. Jacob. cap. 16.

Sotbale, is a kinde of intertainment made by Bayliffes to those of their Hundreds for their gaine. Which sometime is called *Filletable*. Of this *Bracton lib. 3. tractat. 1. cap. prim.* hath these words: *De Ballivis, qui faciunt cervicias suas, quas quandoque vocant (sotbale) quandoque (fictale) ut pecunias extorqueant ab eis qui sequuntur Hundreds sua, & Ballivas suas, &c.* I thinke this should rather bee written *Scotale*. See *Scotale*.

Southvicont (Sub vicecomes) is the undersheriffe. *Cromptons Jurisd. fol. 5.*

Sowne, is a verbe neuter, properly belonging to the Exchequer: as a word of their Art, signifying so much, as to be leviabie, or possible to be gathered or collected. For example, *Estreats* thar *sowne* not, are such as the Sheriffe by his industry cannot get, and *Estreats* that *sowne*, are such as he can gather, *anno 4. H. 5. cap. 2.*

Speaker of the Parliament, is an Officer in that high Court, that is as it were the common mouth of the rest: and as the honourable assembly consisteth of two Houses, one called the Higher or Upper House, consisting of the King, the Nobilitie, and Kings Councill. especially appointed for the same, the other termed the Lower or Common House

containing the Knights of the Shires, the Citizens, Barons of the Cinque Ports, and the Burgeses of Borough Townes: so bee there also two Speakers one termed the Lord Speaker of the Higher House, who is most commonly the Lord Chancellor of England, or Lord Keeper of the Great Seale: the other is called the Speaker of the Lower House. And the duties of these two you have particularly described in *M. Vowels*, aliàs *Hookers Booke*, intituled, The order and usage of keeping the Parliament.

Speciall matter in evidence. See *Generall Issue*. And *Brooke tit. Generall issue*, and *speciall evidence*.

Spiritualties of a Bishop (*spiritualia Episcopi*) bee those profits which hee receiveth, as hee is a Bishop, and not as hee is a Baron of the Parliament. *Stamf. pl. cor. fol. 132.* The particulars of these may be the duties of his Visitation, his benefit growing from ordering and instituting Priests, prebend Money, that *subsidiū charitativum*, which upon reasonable cause hee may require of his Clergie. *Johannes Gregorius de Beneficiis. cap. 6. num. 9.* and the Benefit of his Jurisdiction. *Joachinus Stephanus de Jurisdict. lib. 4. cap. 14. num. 14.* for these reckoneth *Exactionem Cathedralitici, quartam Decimarum & mor-*

tuarium, & oblationum pensionationem, subsidium charitativum, celebrationem Spuedi, collationem viatici vel comenatus, cum Episcopus Romam proficiscitur, ius Hospitalitii, Litaniam, & Processionem.

Spickenard (*spica nardi, vel nardus*) is a medicinall herbe, whereof you may for your further instruction reade *Gerards Herball. lib. 2. cap. 425.* The fruit or eare of this (for it bringeth forth an eare like Lavender) is a drug garbale, *anno 1. Jacob. cap. 19.*

Spoliation (*spoliatio*) is a writ that lyeth for an Incumbent against another Incumbent, in case where the right of Patronage commeth not in debate. As if a Parson bee made a Bishop, and hath dispensation to keepe his Rectory, and afterward the Patron present another to the Church, which is instituted and inducted: The Bishop shall have against this Incumbent a writ of *Spoliation. in Court Christian.* *Fitzherbert, nat. br. fol. 36.* See *Benevolence*.

Squalley, *anno 43. Elizab. b. cap. 10.*

Squyres. See *Esquires*.

Stable stand, is one of the foure Evidences, or presumptions whereby a man is convinced to intend the stealing of the Kings Deare in the Forest.

Man-

Manwood parte 2. of his Forrest Lawes. cap. 18. num. 9. the other three be these, *Dogdrawe*, *Backbeare*, *Blondie-hand*. And this *Staplestand*, is when a man is found at his standing in the Forrest, with a *Crosse-bowe* bent, ready to shoot at any Deere, or with a long Bowe, or else standing close by a Tree with Greyhounds in a lease, ready to slippe, *Idem eodem.*

Stalkers, a kind of net, *anno 13. R. 2. stat. 1. cap. 20. & anno 17. ejusdem cap. 9.*

Stallage (Stallagium) commeth of the French (*Estaller. i. merces exponere, expedire, explicare.*) It signifieth in our common Law, money paid for pitching of stalles in Faire or Market. See *Scavage*. This in Scotland is called *stallange*. *Skene de verbor. signific. verbo Stallangiatores.* And among the Romanes it was termed (*Siliquaticum*) à *siliqua*, *primo & minimo omnium pondere apud illam nationem.*

Stannaries (stannaris) commeth of the Latine (*stannum*) i. *tynne*, signifying the Mines and workes, touching the getting, and purifying of this mettall in *Cornwall*, and other places. Of this read *Camden, Britan. pag. 119.* The liberties of the *stannarie* men granted by *Edm. 1.* before they were abridged by the Statute, *anno 50. Edm. 3.* see in

Plowden, casu Mines. fol. 327. a. b.

Staple (Stapulum) signifieth this or that Towne, or Citie, whither the Merchants of *England* by common order, or commandement, did carrie their wools, wool-fels, cloathes, lead, and tinne, and such like commodities of our land for the utterance of them by the great. The word may probably bee interpreted two wayes: one taking it from (*staple*) which in the Saxon or old English language, signifieth the stay or hold of any thing. *Lamberd* in his duties of Constables. *num. 4.* because the place is certaine, and settled: and againe, from the French (*estape. i. forum vinarium*) because to those places, whither our English Merchants brought their commodities, the French would also meete them with theirs, which most of all consisteth in wines: But I thinke this latter the truer, because I find in the *Mirroure of the world* written in French these words. *A Calais y avoit Estape de le laine, &c.* Which is as much to say, as the staple for wools, &c. You may reade of many places appointed for this staple in the statutes of the Land, according as the Prince by his Councell thought good to alter them, from the second yeare of *Ed. 3. ca. 9.* to the fifth of *Ed.*

the sixth, *cap. 7.* what Officers the staples had belonging to them, you may see *anno 27. Ed. 3. stat. 2. cap. 21.*

Starre-Chamber (*Camera stellata*) is a Chamber at *Westminster* so called (as *Sir Thomas Smith* conjectureth, *lib. 2. cap. 4.*) either because it is full of windowes, or because at the first all the rooffe thereof was decked with Images of gilded Starres. And the latter reason I take to bee the truer, because *anno 25. Hen. 8. cap. 1.* It is written the Sterred Chamber. In this Chamber every week twice during the Terme, and the very next day after Terme, is there a Court held by the Lord Chauncellor or Keeper, and other honourable personages of the Realme. This Court seemeth to have taken beginning from the Statute, *anno 3. Hen. 7. ca. pri.* VVhereby it is ordained, that the Lord Chauncellor and Treasurer of England for the time being, and the Keeper of the Kings Privie Seale, or two of them, calling to them a Bishop and a Temporall Lord of the Kings most Honourable Councell, and the two chiefe Justices of the Kings Bench, and Common place, for the time being, or other two Justices in their absence, should have power to call before them, and punish such misdoers, as there bee mentio-

ned. The faults that they punish, be *Routes, Riots, Forgeries, Maintenaunces, Embraceries, Perjuries*, and such other *Misdemeanures* as are not sufficiently provided for by the Common Law. It appeareth both by *Sir Thomas Smith, lib. 2. de Rep. Anglo. cap. 4.* and by experience also, that at this day, the whole number of the Princes most honourable Privie Councell, and such other Barons (spirituall, or temporall as be called thither by the Prince, have place in this Court with those above-named. Of this Court thus speaketh *Master Gwin* in the Preface to his readings. It appeareth in our bookes of the Termes of King *Edward 4.* And of the report of cases hapning under the usurpation of *Richard* the third, that sometime the King and his Councell, and sometime the Lord Chauncellor, and other great personages, did use to sit judicially in the place then, and yet called the *Starre-Chamber*. But for as much as belike that assembly was not ordinary, therefore the next Kings, *Henry* the seventh, and his sonne, *Henry 8.* tooke order by two severall Lawes, *viz. 3. Hen. 7. cap. pri. & 21. H. 8. ca. 2.* That the Chauncellor assisted with others there named, should have power to heare complaints against *Retainours, Embraceours, misdeme-*

nures of officers, and such other offences, which through the power and countenance of such as doe commit them, doe lift up the head above other faults: and for the which inferiour Judges are not so meet to give correction. And because that place was before dedicated to the like service, it hath been ever since also accordingly used. Touching the officers belonging to this Court, see *Garden*, pag. 112, & 113.

Statute (*statutum*) hath divers significations in our common law. First, it signifies a *Decree* or *Act of Parliament*, made by the Prince and three estates, which is the bodie of the whole Realme. And though it borrow the name from that kind of Decree, which those Cities that were under the Roman Empire, made for the particular government of themselves, over and above the universall or common law of the Empire: yet in nature it cometh neereſt to that which the Romanes called (*Legem*) for that, as that was made by the whole people, Noble and ignoble: so this is ordained by those, that represent the whole number, both of Prince, and subjects, one and other, through the whole Kingdome. The difference nevertheſſe was

this, that (*Lex*) was offered to the consideration of the people by the Magistrate of the Senate, or Consull: but the Bills or suggestions whence our Statutes spring, are offered by any of either house, and so either passed or rejected. In this signification a statute is either generall or speciall. *Coke*, lib. 4. *Hollands case*, fol. 76. a.

Statute, in another signification is a short speech taken for a bond: as statute Merchant, or statute staple, anno 5. H. 4. cap. 12. The reason of which name is, because these bonds are made according to the forme of statutes expressly, and particularly provided for the same; which direct both before what Persons, and in what manner they ought to bee made, *West. parte prim. symbol. lib. 2. Sect. 151.* where hee defineth a statute Merchant thus: a statute Merchant is a bond acknowledged before one of the Clerkes of the statutes Merchant, and Maior or chiefe Warden of the City of London, or two merchants of the said Citie for that purpose assigned, or before the Maior, chiefe Warden, or Master of other Cities or good Townes, or other sufficient men for that purpose appointed, sealed with the seale of the Debter, and of the King, which is of two pieces, the

greater is kept by the said Maior, chiefe VVarden, &c. and the lesser peece thereof by the saide Clerks. The forme of which bond, you may see in *Fleta lib. 2. cap. 64. §. 2.* to be such; *Noverint universi me. N. de tali comitatu teneri N. in 10. marcis solvendis eadem ad festum Pent. Anno regni Regis, &c. & nisi fecero, concedo quod currant super me & Heredes meos districtio, & pœna provisa in statuta Domini Regis edito apud Westm. Datum London. tali die, auno supra dicto.* The fee for the same seale, is for statutes knowledged in Faires; for every pound an halfe penny, and out of Faires a farding. The execution upon statute Merchant, is first to take the body of the Debtor, if hee be lay and can be found: if otherwise, then upon his Lands, and goods. The bound is founded upon the Statute, *anno 13. Ed. prim. stat. 4.* Of this also as of the Statute Staple, see the new book of Entries, *verbo statute Merchant*; and read in *Fleta ubi supra* more touching this matter worth the reading.

Statute staple, (to use the very words of Master *West.*) is either properly so called, or improperly. A Statute Staple properly so called is a Bond of Record knowledged before the Maior of the Staple, in the presence of one of the two

Constables of the same staple, for which seale the fee is of every pound, if the summe exceed not a 100. pound, an halfe penny, and if it exceed an 100. pound, of every pound a farthing. And by vertue of such Statute Staple, the Creditor may forthwith have execution of the body, lands and goods of the Debrer; and this is founded upon the Statute, *anno 27. Ed. 3. cap. 9.* A statute Staple improper, is a bond of Record, founded upon the Statute, *anno 23. H. 8. cap. 6.* of the nature of a proper statute Staple, as touching the force, and execution thereof, and knowledged before one of the chiefe Justices, and in their absence, before the Maior of the Staple, and Recorder of London. The formes of all these bonds, or statutes, see in *West. parte prim. symbol. lib. 2. sect. 152. 153. 154, 155.* Statutes is also used in our vulgar talke, for the Petit Sessions, which are yeerely kept for the disposing of Servants in service, by the Statute, *anno 5. Elizabeth, cap. 4.* See *Recogni'ance.*

Statute sessions, otherwise called Petit Sessions, are a meeting in every Hundred of all the Shires in England, where of custome they have beene used, unto the which the Constables doe repaire, and others, both house holders and servants, for the deba-

debating of differences between Masters and their Servants, the rating of Servants wages, and the bestowing of such people in service, as being fit to serve, either refuse to seeke, or cannot get Masters, *anno 1. Eliz. cap. 4.*

Statuto stapula, is a Writ that lyeth to take his body to prison, and to seize upon his Lands and goods, that hath forfeited a bond, called Statute staple, *Regist. orig. fol. 151. a.*

Statutum de laborariis, is a writ Judiciall for the apprehending of such labourers, as refuse to worke according to the statute, *Reg. Judi. fol. 27. b.*

Statuto Mercatorio, is a Writ for the imprisoning of him, that hath forfeited a bond called the Statute Merchant, untill the debt bee satisfied, *Register origin. fol. 146. b.* and of these there is one against Lay persons, *ubi supra.* and another against Ecclesiasticall. 148.

Stavifaker; staphia agria, vel herba pedicularis, is a medicinalle herbe, the kinde and vertues whereof, you have set forth in *Gerards Herball, lib. 1. cap. 130.* The seed of this is mentioned among drugs to be garbled, *anno 1. Jac. b. cap. 19.*

Stenrerie, is used for the same that *Stannaries* be, in the statute *anno 4. H. 8. cap. 8.* See *Stannaries.*

Sterling (Sterlingum) is a proper epitheton for money current within the Realme. The name groweth from this, that there was a certaine pure Coyne, stamped first of all by the *Easterlings* here in England, *Stowes Annalls, pag. 112.* The which I rather beleieve, because in certaine old Monuments of our English, and broken French, I finde it written *Esterling*; so *Rog. Hoveden* writeth it, *parte poster. annalium, fol. 377. b. M. Skene de verborum signific. verbo Sterlingus*, saith thus: Sterling is a kinde of weight containing 32. cornes, or graines of wheat. And in the Canon Law mention is made of five shillings sterling, and of a merke sterling, *cap. 3. de arbitris, &c. constituit, 12. de procurator.* And the sterling penie is so called, because it weighes so many graines, as I have sundry times proved by experience. And by the Law of England the penie which is called the sterling round, and without clipping, weigheth 32. graines of wheate without taitles, whereof twentie make an ounce, and 12. ounces a pound, and eight pound maketh a gallon of wine, and eight gallons make a bushell of London, which is the eighth part of a quarter. Hitherto *M. Skene. Buchanan. lib. 6.* saith, that the common people thinke it so

termed, of Sterling a Towne in Scotland. Our *Lyndwood* saith that it is called sterling of the bird which wee call a sterling, which as hee noteth, was ingraven in one quarter of the coine so termed, *cap. Item quis. de testamentis. verbo. Centum solidos. in glos.*

Stewes, are those places which were permitted in England to women of professed incontinencie, for the proffer of their bodies to all commers: It is derived from the French (*Estu- ves. i. therma, vaporarium, Balneum*) because wantons are wont to prepare themselves to these venerous acts, by bathing themselves. And that this is not new, *Homer* sheweth in the 8. booke of his *Odiss.* where hee reckneth hot bathes among the effeminate sort of pleasures. Of these stewes see the statute anno 11. Henr. 6. *cap. prim.*

Steward. See *Seneschall* and *Steward*, *Steward* of the Kings house, anno 25. Edw. 3. statute 5. *cap. 21.*

Stillyard (*Guilda Theutonico- rum*, anno 22. H. 8. ca. 8. & anno 32. *ejusdem*, ca. 14.) is a place in London, where the fraternitie of the *Easterling Merchants*, otherwise the *Merchants of Hawse* and *Almaine*, anno pri. Ed. 6. *cap. 13.* are wont to have their abode. See *Geld*. It is so called

of a broad placee, or Court, wherein Steele was much sold, upon the which that house is now founded. *Nathan Chitrew.* See *Hawse*.

Stone of wooll (*Petalina*) see *Weights*. See *Sappler*. It ought to weigh fourteene pounds, yet in some places by custome it is more. See *Cromptons Justice of peace*, fol. 83. b.

Straise, aliàs *Stray*. See *Estric*.

Straites, an. 18. H. 6. ca. 16.

Streme workes, is a kind of worke in the *Stannaries*: for (saith *M. Camden*, titulo *Cornwall*, pa. 119.) *Horum Stannariorum sive metallicorum operum duo sunt genera: Alterum Lode-workes, alterum streme-workes vocant. Hoc in locis inferioribus est cum Fossis agendis stanni venas sectantur & fluviorum alveos subinde deflectunt: illud in locis aditioribus, cum in montibus puteos, quod Shafts vocant in magnam altitudinem defodiunt, & cuniculos agunt. These you may reade mentioned*, an. 27. H. 8. *cap. 23.*

Stirke.

Strip. See *Estreapement*.

Suard, aliàs *steward* (*senescallus*) seemeth to be compounded of *Steed* and *ward*, and is a word of many applications: yet alway signifieth an officer of chiefe account within the place of his sway. The greatest of these is the Lord high Steward of England, whose power (if those Antiquities

ties bee true which I have read) is next to the Kings, and of that height, that it might in some sort match the Ephori amongst the Lacedemonians. The custome of our Common-wealth hath upon great consideration and policie brought it to passe, that this high Officer is not appointed for any long time, but onely for the dispatch of some especiall businesse, at the arraignment of some Noble man in the case of treason, or such like: which once ended, his Commission expireth. Of the high Steward of Englands Court, you may read *Cromptons Jurisd.* fol. 82.

I have read in an ancient Manuscript of what credit, I know not, that this Officer was of so great power in auncient times, that if any one had sought justice in the Kings Court and not found it, hee might upon complaint thereof made unto him, take those Petitions, and reserving them to the next Parliament, cause them there to bee propounded, and not onely so, but also in the presence of the King openly to rebuke the Chancellor, or any other Judge or Officer whom hee found defective in yeelding Justice. And if in case the Judge, or Officer so reprehended, did alledge, that his defect grew from the difficultie of the case, insomuch as

hee durst not adventure upon it: then the case being shewed, and so found, the Lord Steward together with the Constable of England, there in the presence of the King and Parliament, might elect five and twenty persons, or more, or fewer, according to their discretion, and the case or cases in question, some Earles, some Barons, some Knights, some Citizens and Burgessees, which upon deliberation should set downe, what they thought just and equall: and their decree being read and allowed by Parliament, did stand as a Law for ever: furthermore, if the Chancellor or other Judge or Officer, could not well approve that the delay of Justice complained of, grew from just difficultie, by reason that the case in question was formerly determined by Law or Statute: then might the Steward on the Kings behalfe, admonish him of his negligence, and will him to bee more carefull and studious. Or if there appeared malice, or corruption, then the King and Parliament was wont to remove him and assigne another of better hope to the place. Lastly, if the King had about him any such evill Councillor, as advised him to things unjust, or unanswerable to his Majestie, as tending either to the disherison of the Crowne

Crowne, publicke hurt, or destruction of the Subject. The office of the Steward was, taking to him the Constable, and other great men, with some of the Commons, and giving notice to the King of their intention, to send to that Counsellor, and will him to desist from misleading the King, yea, if need so required, to charge him to stay no longer about him, but to depart from the Court, which if hee neglected to performe, then they might send to the King, and with him to remoove him: and if the King refused, then they might take him as a publicke enemy to the King and Realme, seise on his goods and possessions, and commit his body to safe custody, untill the next Parliament, there to be judged by the whole Kingdome: examples are brought of *Godwin Earle of Kent* in the time of King *Edward* next before the Conquerour, of *Hubert Burgh Earle* of the same Countie, in the raigne of *Henry* the third, and of *Peter Gaveston* in *Edward* the seconds dayes. But experience (as I said) hath found this Officer more dangerous then profitable, and therefore hath time taught, though not wholly to suppress him, yet to limite him to particular occasion, and to restraine his power. Then is there the Steward of the Kings most

honourable household, *anno* 24. *Hen.* 8. *cap.* 13. whose name is changed to the name of *great Master*, *anno* 33. *ejusdem*, *cap.* 39. But this Statute was repealed by *anno prim.* *Mar.* 2. *Parlam.* *cap.* 4. and the office of the Lord Steward of the Kings household revived: where you may at large reade divers things touching his Office. As also in *Fitz. nat. brev. fol.* 241. B. Of this Officers ancient power, reade *Fleta, lib.* 2. *cap.* 3. There is also a Steward of the *Marshalsea*, *pl. cor. fol.* 52. & *anno* 33. *Hen.* 8. *cap.* 12. To bee short, this word is of so great diversity, that there is not a Corporation of any accompt, or house of any honour, almost through the Realme, but it hath an Officer toward it of this name. A Steward of a mannor, or of a household, what hee is or ought to be, *Fleta* fully describeth. *lib.* 2. *cap.* 71. & 72.

Straunger, commeth of the French (*estranger. i. alienare.*) It signifieth in our Language generally a man borne out of the Land or unknowne: but in the Law, it hath an especiall signification for him that is not privie, or a partie to an act: as a Stranger to a judgement: *old. nat. brev. fol.* 128. is he to whom a judgement doth not belong. And in this signification it is directly contrary to (*partie*) or (*privie*)

(*privie.*) See *Privie.*

Submarshall, (*submarescallus*) is an Officer in the Marshal-see, that is, Deputy to the chiefe Marshall of the Kings house, commonly called the Knight Marshall, and hath the custody of the prisoners there. *Cromptons Jurisd. fol. 104.* He is otherwise called *Undermarshall*.

Subpœna, is a writ that lyeth to call a man into the Chancerie, upon such case onely, as the common Law faileth in, and hath not provided for: so as the partie, who in equity hath wrong, can have none ordinary remedy, by the rule and course of the common Law. *West. passe 2. symbol. titulo Proceedings in Chancerie, Sect. 18.* where you may reade many examples of such cases, as *Subpœna* lyeth in. There is also a *Subpœna ad testificandum*, which lyeth for the calling in of witnesses to testifie in a cause, as well in Chancerie, as in other Courts. And the name of both these proceed from words in the writ, which charge the partie called to appeare at the day and place assigned, *Subpœna centum librarum, &c.* I find mention of a common *Subpœna* in *Cromptons Jurisd. fol. 33.* which signifieth nothing else but such a *Subpœna*, as every common person is called by into the Chancerie: whereas any Lord

of Parliament is called by the Lord Chancellors Letters: giving him notice of the suit intended against him, and requiring him to appeare. *Crompton, eodem.*

Subsidie (*Subsidium*) cometh of the French (*Subside*) signifying a taxe or tribute assessed by Parliament, and granted by the Common to be levied of every subject, according to the value of his Land or Goods after the rate of foure Shillings in the pound for Land, and two Shillings eight pence for Goods, as it is most commonly used at this day. Some hold opinion, that this Subsidie is granted by the Subject to the Prince, in recompence or consideration, that whereas the Prince of his absolute power, might make Lawes of himselfe, hee doth of favour admit the consent of his Subjects therein, that all things in their owne confession may bee done with the greater indifferencie. The manner of assessing every mans Lands or Goods, is this: First, there issueth a Commission out of the Chancerie to some man of honour or worship in every Countie, by vertue thereof to call unto them, the head Constables or Bailiffes of every Hundred, and by them the Constable and three or foure of the substantiallest

house-holders in every Towne within their Hundred at a day certaine : which men so called, or so many of them, as the Commissioners thinke good to use, doe rate the Inhabitants of their owne Towne, in such reasonable manner, as they finde meet, yet by the discretion of the said Commissioners. And then every man after his value set downe, must at his time pay to the Collectour appointed, after the rate aforesaid, yet in ancient time, these Subsidies seeme to have beene granted both for other causes, as in respect of the Kings great travaile, and expences in warres : or his great favours towards his Subjects : as also in other manner than now they be : as every ninth Lambe, every ninth Fleece, and every ninth Sheafe, anno 14. Ed. 3. stat. prim. cap. 20. And of these you may see great variety in *Rastals Abridgement. tit. Taxes, Tenths, Fifteenths, Subsidies, &c.* whence you may gather that there is no certaine rate, but even as the two houses shall thinke good to conclude. Subsidie is in the statute of the Land, sometime confounded with custome, anno 11. H. 4. cap. 7. See *Benevolence.*

Surety of peace, (securitas pacis) is an acknowledging of a Bond to the Prince, taken by a competent Judge of Record, for the kee-

ping of the peace, *Lamberds Eirenarcha, lib. 2. cap. 2. pag. 77.* This peace may a Justice of peace command, either as a Minister, when hee is willed so to doe by a higher authority, or as a Judge, when hee doth it of his owne power derived from his Commission. Of both these see *Lamberds Eirenarcha, lib. 2. cap. 2. pag. 77.* See *Peace.* See *Supplicavit.*

Suffragan (Suffraganem) is a titular Bishop ordeined, and assisted to aide the Bishop of the Diocesse in his Spirituall function. *c. Suffraganeus. Extra de electione.* For the Etymologie, *Suffraganei dicuntur, quia eorum suffragiis cause Ecclesiasticae judicantur.* *Joach. Stephanus de Jurisdic. lib. 4. cap. 16. num. 14.* It was enacted anno 26. H. 8. cap. 14. that it should bee lawfull to every Diocesan at his pleasure to elect two sufficient men within his Diocesse, and to present them to the King, that hee might give the one of them such Title, Stile, Name, and dignitie of seafe in the said Statute specified, as he should thinke convenient.

Suyte (Secla) commeth of the French (*Suite. i. affectatio, consecutio, sequela, comitatus*) It signifieth in our common Law, a following of another, but in divers senses, the first is a suite in

in Law, and is divided into suite reall, and personall. *Kitchin, fol. 74.* which is all one with action reall and personall. Then is there suite of Court, or suite service; that is an attendance which a Tenant oweth at the Court of his Lord. *Fitz. nat. brev. in Indice. verbo Suite. suite service and suite reall, anno 7. H. 7. cap. 2.* The new Expofitor of Law Termes, maketh mention of foure sorts of suites in this signification. Suite covenant, suite custome, suite reall, and suite service. *Suite covenant*, hee defineth to bee, when your Ancestour hath covenanted with mine Ancestour, to sue to the Court of mine Ancestors. *Suite custome*, when I and mine Ancestors have bene seised of your owne, and your Ancestors suite, time out of minde, &c. *Suite reall*, when men come to the Sheriffes Turne, or Leete, to which Court all men are compelled to come, to know the Lawes, so that they may not bee ignorant of things declared there, how they ought to bee governed. And it is called reall, because of their allegiance. And this appeareth by common experience, when one is sworne: his oath is that hee shall bee a loyall and faithfull man to the King. And this suite is nor for the land that hee holdeth within the Countie,

but by reason of his person and his abode there, and ought to bee done twice a yeere: for default whereof hee shall bee amerced and nor distrained. I thinke this should bee called rather regall or royall, because it is performed to the King for (royall.) The French word in the usuall pronounciation commeth neere to reall, the letter (e) being almost suppressed. See *Leete, Suite service*, is to sue to the Sheriffes Turne or Leete, or to the Lords Court from three weekes to three weekes by the whole yeere. And for default thereof a man shall bee distrained, and not amerced. And this suite service is by reason of the tenure of a mans Land. Then doth suite signifie the following of one in chace, as fresh suite. *West. 1. cap. 46. a. 3. Ed. 1.* Lastly, it signifieth a Petition made to the Prince, or great personage.

Suite of the Kings peace (*señta pacis Regis*) anno 6. R. 2. stat. 2. cap. pri. & anno 21. *ejusdem.* cap. 15. & anno 5. Hen. 4. cap. 15. is the persiewing of a man for breach of the Kings peace, by treasons, insurrections, rebellions, or trespasses.

Summones, is a Writ Judiciall of great diversity, according to the divers cases wherein it is used, which see in the Table of the Register Judiciall.

Summoner (*summonitor*) signifieth one used to call or cite a man to any Court. These by the common Law, ought to be *boni*, that is by *Fleta* his Judgement, *liberi homines*, & *ideo boni*, *quia terras tenentes*, *quod sint coram talibus Justiciariis ad certos diem*, & *locum secundum mandatum Justiciariorum vicecomiti directum*, *parati inde facere recognitionem*. lib. 4. cap. 5. §. Et cum.

Summons (*Summonitio*) see *Summons*. Common *Summons*. *Marth. cap. 18. anno 52. Hen. 3. is l.*

Summons in terra perita. *Kitch. fol. 286.* is that summons which is made upon the Land, which the party at whose suit the summons is sent forth, seeketh to have, *Summons ad warrantizandum*. *Dyer, fol. 69. m. 35.*

Sumage (*Summagium*) seemeth to bee tolle for carriage on horsebacke, *Crompton, Jurisd. fol. 191.* For where the Charter of the Forest, cap. 14. hath these words: for a horse that beareth loads every halfe yeere, a halfe penny: the Booke called *Pupilla oculi*, useth these words: *pro uno equo portante summagium, per dimidium annum obolum*. It is otherwise called a Seame. And a Seame in the Westerne parts is a Horse-load.

Superoneratione pasture, is a writ Judicall that lyeth against

him who is impleaded in the County for the over-burdening of a Common with his cattell, in case where he is formerly impleaded for it in the County, and the cause is removed into the Kings Court at *Westm.*

Superfedeas, is a writ which lyeth in divers, and sundry cases, as appeareth by the Table of the Register originall, and the Judicall also, and by *Fitzb. nat. bre. fol. 236.* and many other places noted in the Index of his Booke, verbo *Superfedeas*. But it signifieth in them all a command, or request to stay or forbear the doing of that, which in appearance of Law were to be done, were it not for the cause, whereupon the writ is graunted. For example: a man regularly is to have surety of peace against him, of whom hee will sweare that hee is afraid, and the Justice required hereunto cannot deny him. Yet if the party be formerly bound to the peace, either in Chauncery, or elsewhere: this writ lyeth to stay the Justice from doing that, which otherwise hee might not deny.

Superstatutum, *Edw. 3. vers servants and labourers*, is a writ that lyeth against him, who keepeth my servant departed out of my service against Law. *Fitz. nat. fol. 167.*

Super statuto de Torke quo mulsera vitell. r., &c. is a writ lying against him, that occupieth viteling either in grosse or by re-taile in a Citie, or Borough Towne, during the time hee is Major, &c. *Fitz. natur. bre. fol. 172.*

Super statuto, anno pri. Edw. 3. cap. 12. & 13. is a writ that lyeth against the Kings Tenent holding in chiefe, which alienateth the Kings Land without the Kings license. *Fitzb. nat. folio 175.*

Super statuto facto pour Seneschall & Marshall de Roy, &c. is a writ lying against the Steward, or Marshall for holding plee in his Court of Free-hold, or for trespassse, contracts not made within the Kings house-hold. *Fitzherbert nat. brev. folio 241.*

Super statuto de Articulis Cleri, cap. 6. is a writ against the Sheriffe, or other Officer, that distraineth in the Kings high-way, or in the glebe Land anciently given to Rectories, *Fitz. nat. brev. fol. 173.*

Super prerogativa Regis, cap. 3. is a writ lying against the Kings widdow for marrying without his license. *Fitzherbert, nat. bre. fol. 174.*

Supplicavit, is a writ issuing out the Chancerie for taking the surety of peace against a man. It

is directed to the Justices of peace of the County, and the Sheriffe: and is grounded upon the Statute, *anno pri. Edw. 3. cap. 16.* which ordaineth that certaine persons in Chancerie shall bee assigned to take care of the peace. See *Fitzb. nat. bre. fol. 80.* This writ was of old called *Breve de minis*, as *Master Lamberd* in his *Eurenartha*, noteth out of the *Register originall*, *fol. 88.*

Sur cui in vita, is a writ that lyeth for the heire of that woman, whose husband having alienated her Land in fee, shee bringeth not the writ *Cui in vita* for the recovery of her owne Land, for in this case her Heire may take this writ against the Tenent after her decease. *Fitzherbert, nat. bre. fol. 193. B.*

Surgeon, commeth of the French (*Chirurgien*, i. *Chirurgus, vulnerarius*) signifying him that dealeth in the mechanickall part of Physicke, and the outward cures performed with the hand. The French word is compounded of two Greeke words (*χειρ*. i. *manus*, and *τερον*. i. *opus*.) And therefore are they not allowed to minister inward medicine. See Statute 32. *Hen. 8. cap. 4.* and *Master Powltons new Abridgement, titulo Surgeons.*

Surcharger of the Forrest, is he that doth common with more Beasts in the Forrest, than hee

hath right to common withall.
Manwood parte 2. of his Forrest Lawes, cap. 14. nu. 7.

Surplusage (*surplusagium*) commeth of the French (*surplus i. corollarium, additamentum*) It signifieth in the common Law, a superfluity or addition more than needeth, which sometime is a cause that a Writ abateth. *Brooke, titulo, Nugation & Superfluity, fol. 100. Plowden casu Dive, contra Manningham, fol. 63. b.* It is sometime also applyed to matter of account, and signifieth a greater disbursement, than the charge of the accomptant amounteth unto.

Surrejoynder, is thus defined by *West. parte 2. symb. titulo Supplications, sect. 57. A Surrejoynder*, is a second defence of the Plaintiffs action, opposite to the Defendants Rejoynder. And therefore (as hee saith) *Hotoman* calleth it *Triplicationem, que est secunda actoris defensio, contra Rei duplicationem opposita*. Not *Hotoman* onely calleth this *triplicationem*: but the Emperour himselve. *De Replicationibus, libro 4. Institut. titulo 14.*

Surrender (*sursum reddito*) is an Instrument testifying with apt words, that the particular Tenent of Lands or Tenements for life or yeeres, doth sufficiently consent and agree, that hee which hath the next or immediate Remain-

der, or Reversion thereof, shall also have the particular estate of the same in possession: and that he yieldeth, and giveth up the same unto him. For every surrender ought forthwith to give a possession of the things surrendered, *West. parte 1. lib. 2. Sect. 503.* where you may see divers presidents. But there may be a surrender without writing. And therefore there is said to bee a surrender in deed, and a surrender in Law. A surrender in deed, is that which is really and sensibly performed. Surrender in Law is in intendment of Law by way of consequent, and not actuall, *Perkins Surrender, fol. 606. & seqq.* as if a man have a lease of a ferm, and during the terme, he accept of a new lease, this act is in Law a surrender of the former, *Coke, vol. 6. fol. 11. b.*

Surseise (*superseise*) anno 32. H. 8. cap. 48. seemeth to be an especial name used in the Castle of Dover, for such penalties, and forfeitures, as are laid upon those that pay not their duties or rent for Castleward at their dayes, *an. 32. H. 8. cap. 48. Bracton* hath it in a generall signification, *lib. 5. tract. 3. cap. 1. nu. 8. and Fleta, lib. 6. c. 3. in prin.*

Surveior (*supervisor*) is compounded of two French words (*sur i. super*) and *veior. i. cernere, intueri, despicere, prospicere, videre*) It signifieth in our common Law,

one that hath the overseeing or care of some great personages, lands, or workes. As the *Surveieur* generall of the Kings manors, *Cromptons Jurisd. fol. 106.* And in this signification it is taken, *anno 33. H. 8. cap. 39.* where there is a Court of Surveieurs erected. And the Surveieur of the Wards and Liveries, *West. parte 2. symbologr. titulo Chancerie. Sect. 136.* which Officer is erected *anno 33. H. 8. cap. 22.* who is the second Officer by his place in the Court of Wards and Liveries, assigned and appointed by the King. His Office seemeth especially to consist in the true examination of the Lands belonging to the Kings wards, that the King be not deceived. At the entrance into his Office, he taketh an oath ministred unto him by the Master of that Court : which see *anno 33. H. 8. cap. 39.*

Surveior of the Kings Exchange, *anno 9. H. 5. stat. 2. cap. 4.* was an Officer, whose name seemeth in these days to be changed into some other. For I cannot learne that there is any such now.

Survivour, is compounded of two French words (*sur* i. *super*) and (*vivre*. i. *etatem agere, vivere*) whence also commeth the compound (*survivre*. i. *superesse*) It signifieth in our common Law, the longer liver of two joynt tenants. See *Brooks, titulo Joynt te-*

nents, fol. 33. or of any two joyned in the right of any thing.

Suspension (*suspensio*) is used for a temporall stop of a mans right, and differeth from extinguishment in this, that a Right of Estate suspended reviveth againe, but extinguished it dieth for ever, *Broke, titulo Extinguishment and Suspension, fol. 314.* Suspension is also used in our common Law, sometimes as it is used in the Canon Law, *pro minori Excommunicatione.* As *anno 24. H. 8. cap. 12.* See *Excommunication.*

Suspirall, seemeth to bee a Spring of water passing under the ground, toward a Conduit or Cesterne, *anno 35. H. 8. cap. 10.* and to be derived from the Latine (*suspirare*) or the French (*souspirer*. i. *ducere suspiria.*) And indeed the word it selfe is French : for (*souspiral*) in that tongue signifieth (*spiramentum cavernæ*) the mouth of a Cave or Den : or the tunnell of a Chimney.

Swainmot, alias *Swainmote*, (*Swainmotum*) signifieth a Court touching matters of the Forest kept by the Charter of the Forest, thrice in the yeere : *anno 3. Hen. octav. cap. 18.* it is called a Swaine-mote : what things be inquirable in the same, you may reade in *Cromptons Jurisd. fol. 180.* who saith that this Court of Swaine-mote is as incident

cident to a Forrest, as the Court of Pie-powder is to a Faire: with whom agreeth M. *Manwood*, *parte pri. of his Forrest lawes*, pag. 144. The word seemeth to bee compounded of (*Swain*) and (*mot*) or (*Gemot* .) For Swaine, as M. *Manwood* saith *ubi supra* pag. 111. in the Saxons tongue signifieth a *Bockland* man, which at this day is taken for a Charterer, or Freeholder: and (*Gemot*) as M. *Lambard* saith in his explication of Saxon words, *verbo Conventus*, is *Conventus*, whereupon it is to be noted, as he saith in the same place, that the Swainemote is a Court of Freeholders within the Forest. Of the which you may reade him at large, pag. 110. &c. usque 122.

T A.

T *Abling of Fines*, is the making of a Table for every County, where his Majesties writ runneth, containing the contents of every Fine, that shall passe in any one Terme, as the name of the Countie, Townes, and places, wherein the lands or tenements mentioned in any Fine, doe lye, the name of the Plaintiffe and Deforceant, and of every manner named in the Fine. This is to be done properly by the Chirographer of Fines of the

Common ples: who the first day of the next Terme after the ingrossing of any such Fine, shall fixe every of the said Tables in some open place of the Court of Common Ples: and so every day of the said Terme during the sitting of the said Court. And the said Chirographer shall deliver to the Sheriffe of every Countie, his Under-sheriffe or Deputie, faire written in Parchment, a perfect content of the Table so to bee made for that Shire, in the Terme that shall bee next before the Assises to be holden in the same Countie, or else in the meane time betweene the Terme, and the said Assises, to bee set up the first day, and every day of the next Assises, in some open place of the Court, where the Justices of Assises then shall sit, to continue there so long, as they shall sit in the said Court. If either the Chirographer, or Sheriffe faile herein, he forfeiteth five pounds. And the Chirographers fee for every such Table is foure pence, *anno 23. Elizabeth*, cap. 3. This saith *West*, *parte 2. Symbol. titulo Fines. Sect. 130.*

Taile (*Tallium*) commeth of the French (*Taile. i. Sectura*) or the verb (*tailler. i. scindere*) signifying in our common law two severall things, both grounded upon one reason, *Plowden, casu Wil-*
lion,

lion, fol. 251. a. b. First it is used for the fee, which is opposite to fee simple: by reason that it is so (as it were) minced, or pared, that it is not in his free power to be disposed of him which owneth it: but is by the first giver cut or divided from all other, and tyed to the issue of the Donce. *Coke, lib. 4. in proemia.* And this limitation, or taile, is either generall, or speciall. *Taile generall* is that, whereby lands or tenements are limited to a man, and to the heires of his bodie, begotten. And the reason of this terme is, because how many soever women, the tenent holding by this title, shall take to his wives, one after another in lawfull matrimonie; his issue by them all, have a possibilitie to inherit, one after the other. *Taile speciall*, is that whereby lands, or tenements be limited unto a man and his wife, and the heires of their two bodies begotten: because if the man bury his wife before issue, and take another, the issue by this second wife cannot inherit the land, &c. Also if land should be given to a man and his wife, and to their sonne and heire *John*, for ever: this is taile especiall. See more of this in fee. And *Littleton, lib. pri. cap. 2.* and the new booke of Entries, verbo *Taile*. *Taile* in the other signification, is that

which we vulgarly call a Tallie. For it is *une taille de bois*, a cloven piece of wood to nicke up an account upon, for in the Statute, anno 10. Ed. pri. cap. 11. and anno 27. ejusdem, stat. pri. cap. 2. it is termed a *Taile*, and anno 38. Edw. 3. cap. 5. And so in Broke his Abridgement, *titulo Taile d' Exchequer, fol. 247.* See *Tailes*.

Tailes (tallie) are in these dayes called Talleyes, well knowne what they be. Of these reade in our statutes two sorts, to have beene usuall in the Exchequer for a long continuance. The one is termed *tayles of debt*, anno 1. Rich. 2. cap. 5. which are a kind of acquittance for debt paid in to the King. For example, the Universitie of Cambridge payeth yeerely ten pounds, for such things as are by their Charter granted them in fee ferme, five pounds at the Annunciation, and five at Michaelmas. Hee that payeth the first five pounds, receiveth for his discharge a taile or talley, and hee that payeth the other five receiveth the like. With both which, or notes of them, he repaireth to the Clerke of the Pipes office, and there, in stead of them, receiveth an acquittance in parchment for his whole discharge. Then be there also mentioned *Tayles of reward*, anno 27. H. 8. cap. 11.

& anno 33. & 34. *eiusdem*, cap.
 16. and anno 2, & 3. *Ed.* 6. cap.
 4. And these seeme to be tales,
 or talies of allowances, or re-
 compence made to Sheriffes for
 such matters, as to their charge
 they have performed in their
 office, or for such monies, as they
 by course have cast upon them
 in their accounts, but could not
 levie them where they were due.
 And these, as it seemeth by the
 said statute, anno 27. *H.* 8. cap.
 11. were of old granted in the
 Exchequer unto them, upon war-
 rant made to the Treasurer and
 Chamberlaines there, by the
 Clerkes of the Signer upon Bill
 assigned by the King. But
 sithence the statute, anno 2, &
 3. *Edm.* 6. cap. 4. What the
 course in this case is, I am not
 so well informed. Onely I heare,
 that for some counties these tales
 be still in use, and that the war-
 rant commeth now from the Au-
 ditour of the Receites, unto
 those that make these talies. And
 that the Sheriffe with them
 proceedeth to those who take
 his finall account, and there
 hath his allowance according-
 lie.

Taylage (*tallagium*) *aliàs*,
Tallage, commeth of the French
 (*taille*) which originally signi-
 feth a piece cut out of the
 whole : and metaphorically is
 used for a share of a mans sub-

stance payed by way of tribute.
 It signifieth with us, a rolle, or
 taxe, as anno *prim.* *Ed.* 2. cap.
unico. And *Stowes Annals*, pag.
 445. Thence commeth *Tailagi-*
ers in *Chamcer* for taxe, or rolle-
 gatherers.

Taint (*Attinctus*) commeth
 of the French (*teint.* i. *infectus*,
teintus) and signifieth either
 Substantively, a conviction, or
 Adjectively a person convicted
 of felonie or treason, &c. See
Attaint.

Tales, is a Latine word of
 knowne signification : It is u-
 sed in our common law, for a
 supply of men empaneled upon
 a Jary or Enquest, and not ap-
 pearing, or at their apparence,
 challenged by the partie, or
 either partie, if there be two,
 as not indifferent, for in this
 case, the Judge upon petition
 granteth a supply to be made by
 the Sheriffe of some men there
 present, equall in reputation
 to those that were empaneled.
 And heereupon the very act of
 supplying is called a *Tales de*
Circumstantibus. This supply
 may be one or more, and of
 as many as shall either make
 default, or else bee challenged
 by each partie, *Stamford*, *pl.*
cor. lib. 3. cap. 5. Howbeit,
 hee that hath had one *Tales*, ei-
 ther upon default or challenge:
 though hee may have ano-
 ther,

ther, yet hee may not have the later to containe so many as the former, for the first Tales must bee under the principall panell, except in a cause of Appeale, and so every Tales lesse then other, untill the number be made up of men present in Court, and such as are without exception to the partie, or parties. Of this see *Stawford* more at large *ubi supra*: where you may find some exceptions to this generall rule. These commonly called (*Tales*) may in some sort, and indeed are called (*Meliores*) viz. when the whole Jurie is challenged, as appeareth by *Brooke, titulo. Octo tales & antier tales, fol. 105.* In whom you may likewise reade many cases touching this matter.

Tales, is the proper name of a booke in the Kings bench office, *Cooke, lib. 4. fol. 93. b.*

Tallage. See *Taylage*.

Talsbide. See *Talwood*.

Talwood, vide anno 34. & 35. Henricus octavus, capit. 3. & anno 7. Edw. 6. cap. 7. & 43. El. cap. 14. Talsbide, ibidem. It is a long kind of shide riven out of the tree, which shortned is made into billets.

Tartaron, anno 12. Edward 4. cap. 3. & anno 4. Henry 8. cap. 6.

Tasels, anno 4. Edward 4. cap. 1. is a kind of hard burre

used by Clothiers and Cloath-Workers in the dressing of Cloath.

Taske, alias Taxe, by *M. Camden* following the authoritie of *Doctor Powell* (whom hee greatly commendeth for his diligence in the search of Antiquities) is a British word signifying tribute. *Camden Britan. pag. 304.* And it seemeth, it is such a kinde of tribute, as being certainly rated upon every Towne, was wont to bee yearely paid. See *Gild*, and the places there cited out of *Master Cambden*. Now it is not paid, but by consent given in Parliament, as the Subsidie is. And it differeth from Subsidie in this, that it is alway certaine, accordingly as it is set downe in the Chequer booke, and levied in generall of every Towne, and not particularly of every man. Lastly, it is a fifteenth of that substance, that every Towne was first rated at by the number of Hides of Land in the same. Whereupon it is also called a fifteenth, *vide anno 14. Edw. 3. statut. 1. cap. 20.* For whereas *Master Crompton* in his *jurisdictions*, fol. saith, that it is levied sometime by goods, as well as by lands, as also appeareth by the Statute, *anno 9. Hen. 4. cap. 7.* I take his meaning there to bee, that though the taske in the

whole were at the first by the Prince proportioned by the land: Yet the Townes men among themselves to make up that summe, are at these dayes sometime valued by goods. See *Fifteenth*. It seemeth that in auncient times, this taske was imposed by the King at his pleasure, but *Edward the first*, anno 25. of his raigne, bound himselve, and his successors from that time forward, not to levie it, but by the consent of the Realme, anno 25. *Ed. pri. cap. 5.* The word *Taske* may be thought to proceed from the French (*Taux*, alias *Taxe*. i. *estimatio*, *pretium*) for wee call it also *Taxe*: but over curiously to contend in these derivations, may seeme frivolous, considering that many words are common to divers peoples.

Telonium, or *Breve essendi quitum de Telonio*, is a writ lying for the Citizens of any Citie, or Bourgeses of any Towne that have a *Charger*, or prescription to free them from Tolle, against the Officers of any Towne, or Market constraining them to pay Tolle of their Merchandise, contrary to their said graunt or prescription. *Fitzb. nat. br. fol. 226.* *Hotoman, lib. 2. commentariorum in feuda, cap. 56. vers. Vestigalia*, hath these words: *Teloniam autem dicuntur, publicanorum stationes in quibus vestigalia*

recipiunt: sed apud istius generis scriptores, Telonium dicitur vestigal, quod pro pontium aut riparum munitione penditur: Et plerumq; à principibus solum exactionis causa, imperatur.

Team, alias *Tbeam*, is an old Saxon word, signifying a Royalty granted by the Kings Charter, to a Lord of a manour, *Bracton, lib. 3. tract. 2. cap. 8.* of this *Saint Edwards lawes*, *mt. 25.* say thus. *Quod si quisquam aliquid interciat (id est, penes alium defendat) super aliquem, & interciatus, non poterit warantum suum habere, eris forisfactura sua, & Justicia similiter de calumniatore, si defecerit. M. Skene de verborum significatione, verbo Theme*, saith, that it is a power to have servants and slaves, which are called *nativi, bondi, villani*, and all Baronies infeoffed with *Theme*, have the same power. For unto them all their bondmen, their children, goods, and cartels, properly appertaine: so that they may dispose of them, at their pleasure. And in some old authentike bookes it is written. *Theme est potestas habendi nativos, ita quod generationes villanorum vestrorum, cum eorum catallis, ubicunq; inveniantur, ad vos pertinent. Theme* commeth from *Than*, i. *servus*, and therefore sometime signifieth the bondmen, and slaves, according to an old statute and law. *De curia de The-*

me. Quod si quis teneat curiam de Theme, & illa querela in illa curia movetur, ad quam Theme vocatur: non debet illa curia elongari, sed ibidem determinari, & omnes Theme ibi compareant. Which is understood of the question of libertie, when it is in doubt, whether any person bee a bond man or free man. Which kinde of proces should not be delayed, but summarily decided. And the new Expofitor of law termes, speaketh to the like effect, *verbo Them.* I read it also in an^old paper written by an Exchequer man thus translated: *Theam. i. propago villanorum.*

Teller, is an officer in the Exchequer, of which sort there be foure in number. And their office is, to receive all monies due to the King, and to give to the Clerk of the Pell a bill to charge him therewith. They also pay to all persons, any money payable unto them by the King, by warrant from the Auditour of the receipt. They also make weekly and yearly bookes, both of their receipts and Payments, which they deliver to the Lord Treasurer.

Templers (Templarii) See *Knights of the Temple.* These whilest they flourished here in England, which seemeth to be all that time betweene Henry the seconds dayes, untill they were suppressed, had in every nation a

particular Governour, whom *Bract.* calleth *Magistrum militiae Templi. lib. i. c. 10.* Of these read *M. Camden* in his *Br. p. 320.* See *Hospitallers.*

Temporalities of Bishops (Temporalia Episcoporum) be such revenues, lands, and tenements, as Bishops have had laid to their Sees by the Kings and other great personages of this land from time to time, as they are Barons, and Lords of the Parliament. See *Spiritualties of Bishops.*

Tend, seemeth to signifie, as much as to endeavour, or offer, or shew forth, to tend the estate of the party of the Demandant, *Old. nat. br. fol. 123. b.* to tend to travers. *Stamf. prerog. fol. 96.* to tend an averment. *Brit. cap. 76.*

Tender, seemeth to come of the French (*Tendre. i. tener, delicatus*) and being used adjectively, signifieth in English speech, as much as it doth in French. But in our common law, it is used as a verb: and betokeneth as much, as carefully to offer, or circumspectly to endeavour the performance of any thing belonging unto us: as to tender rent, is to offer it at the time and place where and when it ought to be paid. To tender his law of non summons. *Kitchin. fo. 197.* is to offer himselfe ready to make his law, whereby to prove that hee was not summoned. See *law.* See *make.*

Tenementis legatū, is a Writ that lyeth to *London*, or other corporation, where the custome is, that men may demise tenements by their last will, as well as their goods and catels, to whom they list, for the hearing of any controverſie touching this matter, and for the rectifying of the wrong, *Regist. orig. fol. 244. b.*

Tenant, aliās, tenent, (tenens) commeth either of the Latine (*tenere*) or of the French (*tenir*) and signifieth in our common Law, him that possesseth lands, or tenements by any kinde of right, be it in fee, for life, or for yeares. This word is used with great diversitie of Epithits in the Law, sometime signifying or importing the efficient cause of possession, as *tenent in Dower*: which is shee, that possesseth land, &c. by vertue of her Dower. *Kitchin, fol. 160.* *Tenant per statute Merchant. Idem fol. 172.* that is, hee that holdeth land by vertue of a Statute forfeited unto him. *Tenant in frank marriage. Kitchin, fol. 158. viz.* hee that holdeth land or tenement by reason of a gift thereof made unto him upon marriage, betweene him and his wife. *Tenant by the courtesie. Idem, fol. 159.* i. hee that holdeth for his life by reason of a child begotten by him of his wife being an inheritrix, and borne alive. *Ten-*

ment per elegit. Idem, fol. 172. i. hee that ho'deth by vertue of the writ termed *Elegit. Tenant in mortgage, Idem, fol. 38.* is hee that holdeth by vertue of a mortgage or upon condition, that if the lessour pay so much money at such a day, that hee may enter, and if not, that the lessee shall have a fee simple, fee tayle, or free hould. Sometime these Epithites import the manner of admittance: as *Tenant by the verge* in ancient demesne. *Idem, fol. 81.* is hee that is admitted by the rod in a Court of ancient demesne. Sometime the evidence, that hee hath to shew for his estate: as *Tenant by copie of Court rolle*, which is one admitted *Tenant* of any lands, &c. within a manour, that time out of the memory of man, by the use and custome of the said manour have bene demisable, and demised to such as will take the same in fee, fee-tayle, for life, yeares, or at will, according to the custome of the said manor. *West. parte prim. sym. lib. 2. sect. 646.* whom read more at large. Againe, *Tenant by charter*, is he that holdeth by feofment in writing or other deed. *Kitchin, fol. 57.* Sometime these Epithites signifie that duetie which the *tenent* is to performe by reason of his tenure. As *Tenant by Knights service, Tenant in socage, Tenant in burgage, Tenant*

in frank fee, tenent in villenage. Sometime they import the estate of the tenent, or his continuance in the land, as tenant in fee simple, *Kitchin. fol. 150.* Tenent in fee taile, *Idem fol. 153.* Tenent for life, and tenent for yeeres: *Idem fol. 163.* Tenent at the will of the Lord according to the custome of the manner. *Idem. fol. 132. & 165.* Tenent at will by the common law. *Idem, eodem.* Tenent upon sufferance. *Idem, fol. 165.* Tenent of state of inheritance, *Stawnsford, prærog. fol. 6.* Sometime they containe a relation toward the Lord, of whom he holdeth as tenent in chiefe, i. hee that holdeth of the King in the right of his Crowne, *Fitzber. nat. br. fol. 5.* F. Tenent of the King, as of the person of the King. *Idem, eodem.* or as of some honour: *eodem:* Very tenent, i. he that holdeth immediately of his Lord, *Kitchin, fol. 99.* For if there be Lord *Mesne*, and Tenent, the Tenent is very Tenent to the *Mesne*, but not to the Lord above. *Tenent paravaile, pl. cor. fol. 197. & Fitzb. nat. br. fol. 136.* D. is the lowest Tenent, and farthest distant from the Lord Paramount. It seemeth to be Tenent *Per availe.* See *Dyers Commentaries, fol. 25. num. 156.* No tenent in right to the Lord, but tenent as for the avowrie to be made, *Lisleton, fol. 96.* Sometime they

have a relation betweene Tenents, and Tenents in severall kinds, as joynt Tenents, i. they that have equall right in lands and tenements, and all by vertue of one title, *Lisleton, lib. 3. cap. 3.* Tenents in common, bee they that have equall right, but hold by divers titles, as one or more by gift or descent, and others by purchase. *Idem, eodem, cap. 4.* Particular tenent, *Stawnsford, prærog. fol. 13.* that is, hee which holdeth onely for his terme, as tenent in dower, tenent by the courtesie, or otherwile for life, *West. parte 2. Symbol. titulo Fines. Sect 13. G.* See anno 32. H. 8. ca. 31. and *Coke* in *Sir William Pelmams case, lib. 1. fol. 15. a.* they be termours for yeares or life. See *Plowden casu Colbirst, fol. 23. b.* Sole tenent, *Kitchin, 134.* i. hee that hath none other joyned with him. If a man and his wife hold for both their lives, and the man dieth, hee dieth not sole tenent, *Idem, eodem.* Severall tenent, is opposite to joynt tenents, or tenents in common. See *Severall tenencie.* Tenent *al præcipe*, is hee, against whom the writ (*Præcipe*) is to be brought. *Cokes Reports, lib. 3. The case of Fines, fo. 88. a.* Tenent in demesne, anno 13. Ed. 1. cap. 9. anno 32. H. 8. cap. 37. hee that holdeth the demesne of a manor for a rent without service. Tenent in service,

service, *anno 20. Ed. 1. stat. 1.* is hee that holdeth by service, *v. Britton. cap. 79. in principio, & cap. 96. Car fealte, &c. vel quare*, whether hee may be termed tenant in demesne, that holdeth some of the demeanes howsoever, and hee Tenant in service, which is a Free-holder to a manor, holding by service, for the Free-holds of a manor are not accounted of the demesne, but onely that which the Lord keepeth in his owne hand, or letteth out by copie, according to the custome of the manor. Tenant by execution, *anno 32. Henry 8. cap. 5.* is hee that holdeth land by vertue of an execution upon any statute, recognisance, &c.

Tendebeved (decanus, vel caput decem familiarum) of this see *Roger Hoveden, parte poster. suorum annalium, fol. 346. a.* See *Frank pledge*.

Tenement (tenementum) is diversly used in the common Law, most properly it signifieth a house, or home Stall: but in a larger signification it is taken for either house or land that a man holdeth of another. And joyned with the Adjective (*Frank*) in our Lawyers French, it contained generally lands or houses, yea or offices, wherein wee have estate for some of life, or in fee. And in this significa-

tion, *Kitchin, fol. 41.* maketh frank tenement, and base estate, opposite the one to the other. In the same sort doth *Britton* use it, through his whole 27. Chapter, as also *Bracton* doth the Latine (*liberum tenentum*) *li. pri. cap. 5. & 6.* and many other places.

Tenentibus in assisa non onerandis, &c. is a writ that lyeth for him to whom a disseisour hath alienated the land whereof hee disseised another, that he be not molested for the dammages awarded, if the *Disseisour* have wherewith to satisfie them himselfe, *Reg. orig. fol. 214. b.*

Tenths (Decime) is that yearly portion or tribute, which all Livings Ecclesiasticall doe yeeld to the King. For though the Bishop of Rome doe originally pretend right unto this revenue, by example of the High Priest among the Jewes, who had tenths from the Levites, *Numb. cap. 8. Hieronymus in Ezechielem.* Yet I reade in our Chronicles, that these were often granted to the King by the Pope, upon divers occasions, sometime for one yeare, sometime for more, untill by the statute, *anno 26. Hen. 8. cap. 3.* they were annexed perpetually to the Crowne. See *Disins.* It signifieth also a taske levied of the temporaltie. *Holinshead, H. 2. fol. 111.*

Tenore indictamenti mittendo, is a writ whereby the Record of an indictment, and the processe thereupon, is called out of another Court into the Chancerie, *Registr. orig. fol. 169. a.*

Tenure (Tenura) commeth of the Norman (*Tenure*) as appeareth by the Grand Customarie, *cap. 28.* where it is defined to this effect: *Tenure* is the manner, whereby Tenements are holden of their Lords. What may make a *Tenure*, and what not, see *Perkins Reservations*, 70. And in that chapter shall you find the most of those *Tenures* recited, that be now usually in England. In Scotland I finde that there be foure manner of *Tenures*, which they call holding of land; the first is *pura elemosina*, which is proper to spirituall men, paying nothing for it, but *devota animarum suffragia*: the second they call *Few*, or *Few ferme*, which holdeth of the King, Church, Barons, or others, paying a certaine dutie, called *Feudi firma*. The third is a hold in (*Blench*) as they terme it, by payment of a penie, rose, paire of guilt spurs, or some such like thing, if it be asked, in name of *Blench*, *id est, nomine alba firme*. The fourth is by service of ward, and relieve, where the heire being *minor*, is in the gard or custodie of his Lord, together with his

lands, &c. And land holden in this fourth manner, is called there *feudum de Hanberke*, or *Haubert*; or *feudum militare*, or *feudum Hanberticum*, or *feudum lorica-tum*: because it is given upon condition, that the vassall possessor thereof, shall come to the Host with a Jack, or *Hanbert*, which is a coat of Maile. *M. Skene de verb. signif. verbo Hanbert.* *Tenure in grosse*, is the *Tenure in capite*. For the Crowne is called a Seignorie in grosse, because it consisteth as a corporation of and by it selfe, not tied to any honour, or manor. See *Cromptons Jurisd. fol. 206.* See the new booke of *Entries, verbo Tenure.*

Terme (Terminus) signifieth with us commonly, the bounds and limitation of time: as a lease for terme of life, or terme of yeares, *Bracton, lib. 2. cap. 6. nu. 4.* But most notoriously it is used for that time, wherein the Tribunals, or places of Judgement are open to all that list to complaine of wrong, or to seeke their right by course of law, or action. The rest of the yeare is called vacation. Of these *Termes* there be foure in every yeare: during the which, matters of Justice (for the most part) are dispatched. And this Sir *Thomas Smith lib. 3. de Rep. Ang. cap. 2.* reckoneth as miraculous: that in lesse time then the third part of the yeare, three Tribu-

nals, all in one Citie, should redifie the wrongs of so large and populous a Nation, as *England* is. Of these Termes, one is called *Hilarie Terme*, which beginneth the 23. of Januarie, or if that be Sunday, the next day following, and endeth the 21. of Februarie. Another is called *Easter Terme*, which beginneth 18. daies after Easter, and endeth the Munday next after Ascension day. The third is *Trinitie Terme*, beginning the Friday next after Trinitie sunday, and ending the Wednesday fortnight after. The fourth is *Michaclmas Terme*, beginning the 9. of October, or if that be Sunday, the next day after, and ending the 28. of November.

Termor (*Tenens ex termino*) is he that holdeth for terme of yeares or life, *Kitchin*, fol. 151. *Littleton*, fol. 100.

Terra extendenda, is a writ directed to the Escheatour, &c. willing him to inquire and find the true yearely value of any land, &c. by the oath of twelve men, and to certifie the extent into the Chancerie, &c. *Register*, orig. fol. 293. b.

Terris, bonis & catallis rehabendis post purgationem, is a writ that lieth for a Clerke to recover his lands, goods, or chatels formerly seised on, after he hath cleared himselfe of that felonie, upon suspension whereof hee was formerly

convicted, and delivered to his ordinarie to be purged, *Register*, orig. fol. 68. b.

Terris liberandis, is a writ, that lyeth for a man convicted by attaint, to bring the Record and Proceffe before the King, and to take a fine for his imprisonment, and to deliver him his lands and tenements againe, and to release him of the *Strip* and *Waste*, *Registr. orig. fol. 232. a.* It is also a writ for delivery of lands to the heire after homage, and reliefe performed; *codem*, fol. 293. b. or upon securitie taken, that hee shall performe them, *codem*, fol. 313. b.

Terris & catallis tentis ultra debitum levatum, is a writ Judiciall, for the restoring of lands or goods to a debtour that is distreined above the quantitie of the debt, *Register Judiciall*, fol. 38. b.

Terretenent (*terratenus*) is he which hath the naturall, and actuall possession of the land, which we otherwise call the occupation, *anno 39. Eliz. cap. 7.* For example, a Lord of a manour hath a Free-holder, who letteth out his free land to another to be occupied: this occupier is called the *Terretenent*, *West. parte 2. symb. tit. Fines. Sect. 137. Cromptons Jurisd. fol. 194. Britton, cap. 29. Perkins feofments, 231. And Petrus belluga in speculo Principum.*

pam. Repub. 46. versiculo, Restat videre, num. 9. useth this word Terratenentes in the same signification. See Land tenants. Yet I have heard some learned in the Law say, that the Tertenent, is the tenant in free, or copyhold, according to the custome of the manour, and opposite to tenant for terme of yeares. Quere.

Ters, is a certaine measure of liquide things, as wine, oyle, &c. containing the sixth part of a Tunne, *anno 32. H. 8. cap. 14.* or the third part of a Pipe.

Testament, (*testamentum.*) See *Will.*

Testatum, is a writ that seemeth especially to lye against great personages of the Realme, whose bodies may not be medled with in actions of debt. And therefore if the Sheriffe returne, (*nihil habet in balliva mea*) in a case of execution, another writ shall be sent out into any other Countie, where such personage is thought to have whence to satisfie, which is termed a *Testatum*, because the Sheriffe hath formerly testified, that he found nothing in his Bayliweeke to serve the turne. See *Kitchin* in his Returnes of writs, *fol. 287. b.*

Teste, is a word commonly used for the last part of any writ: so called, because the very conclusion of every writ wherein

the date is contained, beginneth with these words (*teste meipso, &c.* If it be an originall writ, or if judiciall, *teste Thom. Fleming, or Edovardo Cooke*, according to the Court whence it commeth. Where I may note by the way, that in *Glanville, lib. pri. cap. 6. & 13. & lib. 2. cap. 4.* I finde the forme of an originall writ in the last clause to be (*teste Ranulpho de Glanvilla apud Clarindon, &c.* And divers times in the Register, orig. *Teste custode Anglie*: as namely, in the title *Prohibition, fol. 42. a.* and *Consulation, fol. 54. b.*

Thanus, is a made Latine word of the Saxon (*thegu*) which cometh of (*thenian*) i. *alicui ministrare.*) It signifieth sometime a Noble-man, sometime a free man, sometime a Magistrate, sometime an Officer, or Minister. *Lamb.* in his Exposition of Saxon words: *verbo thanus.* See the place. See *Vavasour, M. Skene de verbor. significat.* saith, it is the name of a dignitie, and appears to be equall with the sonne of an Earle. And *Tbanus* was a Freeholder holding his lands of the King. And a man not taken with the *sang* (that is, with the manner, as wee say) accused of theft, no sufficient prooffe being brought against him, must purge himselfe by the oath of seven and twenty men, or of 3: *Thanes Tbanagium*

nagium Regis, signifieth a certaine part of the Kings lands, or propertie, whereof the rule and government appertaineth to him, who therefore is called *Thanus*. For *Domania Regis*, and *Thana-gia*, *idem significant*. It is a Dutch word: For (*teimer*.) signifieth a servant, and *teinen* to serve. And *thane* is likewise a servant, and *under-thane*, an inferiour *thane* or subject. Thus farre Master *Skene*.

Thack-tile, anno 17. *Edw. 4. cap. 4.* otherwise called *plaine tyle*, is that tile which is made to be layed upon the side, and not upon the rudge of a tyled house, anno 17. *Ed. 4. cap. 4.*

Theam. See *Team*.

Theft (*furtum*) is an unlawful felonious taking away of another mans moveable, and personall goods against the owners will, with an intent to steale them. *West. parte 2. symbol. titulo Inditements, sect. 58.* where also hee saith, that theft is from the person, or in presence of the owner, or in his absence. Theft from the person or in presence of the owner, is of two sorts: the one putting the owner in feare, the other not. *Idem, eodem, sect. 59.* The former is properly called *Robberie*, *ibid. sect. 60.* The new Expounder of law termes, *verbo Larcenie*, divideth theft into theft so simply called, and pe-

tit or little theft. Whereof the one is of goods above the value of twelve pence, and is felonie, the other under that value, and is no felonie. But see *Felonie*.

Theftbote, is made of (*theft*) and (*boote*) i. *compensatio*, and signifieth properly the receiving of goods from a theefe, to the end to favour, and maintaine him. The punishment whereof is ransom and imprisonment, and not losse of life and member. *Stawns. pl. cor. lib. prim. cap. 43.* And the mirrour of Iustices, *lib. 2. cap. des peches criminals al sice le Roye*. And yet hee there maketh mention of a Record alledged, which testified a judgement of life and member given in this case.

Thegue. See *Thamus*, and *Thingus*.

Them. See *Team*. It signifieth *acquietantiam amerciamen-torum sequele propriorum servorum*. *Fleta, lib. prim. cap. 47. sect. Thema.*

Thelonium. See *Tbolle*, and *Tbolonium*, and *Tolle*.

Theolonio rationabili habendo pro Dominis habentibus Dominica Regis ad firmam, is a writ, that lyeth for him, that hath of the Kings demesne in fee ferme, to recover reasonable tolle of the Kings tenants there, if that his demesne have beene accustomed

to be tolled, *Register, orig. fo. 87. b.*

Thingus. Crompton Jurisd. fol. 197. seemeth to be used for the Saxon *Thegne*. See *Thamus*. His words are these, speaking of a Charter or Graunt made by a Lord of a Forest. *Sciatis me concessisse omnibus militibus, & omnibus thingis, & omnibus liberè tenentibus, qui manent in Foresta mea de Honore de Lancaster, quod possunt, &c.* *Fleta* writeth it *Them*, and saith, *quod significat liberam.*

Then, significat *servum*. *Fleta, lib. prim. cap. 47.* See *Thamus*, and *Thingus*.

Thridberow, is used for a Constable, *anno 28. Hen. 8. cap. 10.* which also is noted by *M. Lambert* in his *Traçtate intituled: The dutie of Constables, pag. 6.* which seemeth to bee corruptly used for the Saxon (*freaborb. i. ingenuus fidejussor,*) or (*freborhescod. i. vas primarius*) *Idem*, in his explication of Saxon words, verbo, *Centuria*.

Thrid with hawau man (*trium noctium hospes*) who if he did any harme, his Host, by the lawes of Saint Edward, and of the Conquerour, was answerable for the harme. *Rogerus Hoveden parte poster. suorum annal. fol. 345.*

Thokei of fish, anno 22. Ed. 4. cap. 2.

Tholl (*Thollonium*) est *libertas emendi, & vendendi in terra sua.* *Archæiom. Lam. fol. 132.* See *Toll*.

Thraue of corne, anno 2. Hen. 6. cap. 2. consisteth of two shookes: and every shooke containeth fixe sheeves. It seemeth to be a word proper to the North parts.

Thrimsa, commeth of (*Threo*) that is three, and signifieth a peece of money of three shillings. *Lamb. explica. of Saxon words, verbo Thrimsa.*

Tilsen of saten, anno 1. Hen. 8. cap. 14.

Tincell, commeth of the French (*Estincelle. i. scintilla*) or the verbe (*Estinceller. i. scintillare.*) It signifieth with us a stuffe or cloath made partly of silke, and partly of gold or silver so called, because it glistereth or sparkeleth like starres.

Tissa, is a French word signifying as much as (*woven*) Cloath of Tissue, with us cloath of silke and silver, or of silke, and gold woven together.

Tube (*Decimo*) seemeth to be an abbreviat of (*tything*) being the Saxon (*Teothung*) a little altered, which signifieth *Decuriam*, *Lamb. explication of Saxon words, verbo Decuria.* It signifieth in our common Law, the tenth part of all fruits prediall, or personall, which bee due to God, and so consequently to his Minister, toward the recompence of his paines taken in instructing his charge, how to

live after Gods commandements, and his continuall intercession that hee doth or ought to make unto God for their both spirituall and temporall blessings, *Levit. cap. 27. versu 30.* I say the tenth part, though *Covarruvius* with other learned Canonists and Schoolemen, hold the rate of tithes, not to bee necessarily the tenth part of the frutes by the morall Law of God. Yet the better and more Theologicall opinion is, that they are all deceived, and that from their errour hath sprung much wrong to Almighty God, and great mischief to his Church: and that by the law of God and nature, no contrary custome ought to last any longer, then the Parson and Parishioner shall both thinke well of it. Wherefore those customes of paying a halfe penny for a Lambe, or a penny for a Calfe by such as have under seven in one yeare, how long soever it hath indured, is but very unreasonable in these dayes, when both Lambes and Calves are growne foure times dearer, and more then they were when this price was first accepted. And therefore no man dischargeth well his conscience in this point that payeth not duly the tenth of every Lambe, every Calfe, and every other thing titheable. For

by this course the Minister saith well or evill in a proportion with his Parishioner, as it pleaseth God to give increase, whereas by any other order the one or the other shall finde want of indifference, as the prices of things shall rise or fall.

Tithing (*Tithingum*) is the Saxon word *Teothung* for the which see (*Tithe.*) It signifieth (as *M. Lambard* saith in his dutie of Constables) the number or company of ten men with their families, cast or knit together in a societie, all of them being bound to the King for the peaceable and good behaviour of each of their societie. Of these Companies was there one chiefe or principall person, who of his office was called (*Toothung-man*) at this day in the West parts (*Tithingman*) but now he is nothing but a Constable. For that old discipline of Tithings is left long since. It signifieth also a court, *Anno 23. Ed. 3. cap. 4. & anno 9. H. 3. cap. 35.* See *Chiefe Pledge* and *Franke Pledge*, and *Decennier*. Tithing is used for a Court. *Magna charta, cap. 25. and Merton, cap. 10.*

Tolde of wooll, is a quantitie containing 28. pound in weight, or two Stone.

Tost (*Tostum*) is a place, wherein a mesuage hath stood.

West.

West. parte 2. symbol. titulo Fines. Sect. 26.

Toile, commeth of the French (*Toile. i. tela*) and signifieth with us a net or cord to compasse or take Deere.

To lange and to bred. See *Bred.*

Tolle, (*Tollere*) as it is a verbe, signifieth to defeat or take away, anno 8. H. 6. cap. 9.

Toll, aliàs *Tbol* (*Tolnetum*, aliàs *Theolonium*) is a Saxon word, and hath in our common Law two significations: first it is used for a libertie to buy and sell within the precincts of a manour, Lamb. Archainom. fol. 132. which seemeth to import so much as a Faire or Market. The words be these: *Tbol* (*quod nos dicimus Theolonium*) est scilicet quod habeat libertatem vendendi & emendi in terra sua. In the second signification it is used for a tribute or custome paid for passage, &c. as in Bracton: *Si cui concedatur talis libertas quod quietus sit de Theolonio & consuetudinibus dandis per totum Regnum Anglie in terra & mari, & quod Theolonium & consuetudines capiat infra libertatem suam de eumentibus & vendentibus, &c. lib. 2. cap. 24. num. 3.* But even there in the end of the second number hee hath this word, *Toll* (as it seemeth) in the former signification also, which by these words above written following a little after, he inter-

preteth to be a libertie as well to take, as to be free from *Tolle*. The made Latine word (*Theolonium*) *Cassaneus in consuet. Burgund. pag. 118.* deriveth a (*Tollendo*) but I rather thinke it cometh from the Greeke (*τελώνια*) or (*τελωεία*) i. *vestigalium redemptio, vel etiam vestigalium exactio*) *Fleta* hath these words of it: *Toll significat acquietantiam Theolenii ubiq; in Regno, lib. pri. cap. 47. M. Skene de verb. signif. verbo Toll*, saith it is a custome, and that it cometh from the Greeke word of the same signification (*τίλον*) and that hee who is infeoffed with *Toll*, is custome free, and payeth no custome: which is manifest by sundrie old bookes, wherein it is written: *Toll, hoc est, quod vos & homines vestri de toto homagio vestro sint quieti de omnibus mercatis, & de Tolneto, de omnibus rebus emptis & venditis.* Thus farre hee. *Kitchin, fol. 104.* maketh mention of *tolle* through, and *tolle* travers, his words be to this effect: Custome or prescription to have *tolle* through in the High way, is not good: for it is against the common right. But to have prescription of *tolle* travers, is good. In which place the difference betweene the one, and the other the new expositour of Law Termes saith to be, that *tolle* travers is that monie, which is

is taken for passing over a private mans ground. But this Author seemeth to differ from *Kit-ebin* touching the lawfulnessse of tolle, through saying, that by reason of a Bridge provided at the cost and charge of the towne, for the ease of Travellers, hee thinketh it reasonable, that tolle through be enacted toward the maintenance thereof: which writer also maketh mention of tolle Turn: and that he defineth to bee tolle paid for beasts driven to be sold, though they be not sold indeed. Where I thinke, hee must mean a tolle paid in the returne homeward from the Faire or Market, whither they were driven to be sold. *Plowden, casu Willion, fol. 236.* agreeth in this definition of tolle travers. And this the Feudists call *Parangariam*; defining it to be *Sumptus & labores ferendi referendive alicujus causa à principe impositi, cum non per viam, sed aliò versum iter suscipitur.* l. 2. *Cod. de Episc. & cleri à greco* (*ἑσθημενα*.) i. *transitus per viam transversam.* *Gothofred, ad. l. 4. sect. 1. π. de vetera*; I find in *Andrew Hornes mirror of Justices, lib. 1. cap. des articles, &c.* that by the ancient law of this land, the buyers of corne or cattell in faires or Markets, ought to pay tolle to the Lord of the market, in testimonie of their contract there law-

fully made in open market: for that privie contracts were held unlawfull.

Toloneum or *Breve de essendi quietum de Teloneo*, is a writ that lieth in case, where the Citizens of any Citie, or Burgessees of any Towne, be quit from tolle by the grant of the Kings Predecessors, or prescription: which you have at large in *Fitzh. nat. br. fol. 226.* See *Telonium*.

Tolt (*Tolta*) is a writ whereby a cause depending in a Court Baron, is removed into the Countie court. *Old nat. br. fol. 2.* The reason of the appellation seemeth to come from the verbe (*Tollo*) v. *Coke, lib. 3. in prefatione ad lectorem.*

Tonne. See *Tunne*.

Tonnage, is a custome or impost due for merchandise, brought or carried in Tuns and such like vessels, from or to other nations after a certain rate in every Tun, *an. 12. Edw. 4. ca. 3. anno 6. H. 8. ca. 14. & anno pri. Ed. 6. ca. 13. anno pri. Jacobi, ca. 33.* I have heard it also called a dutie due to the Mariners for unloading their Ship arrived in any Haven after the rate of every Tun.

Torny. See *Turney*.

Totted, *anno 42. Edw. 3. cap. 9. & anno 1. Ed. 6. cap. 15* is a word used of a debt, which the forreign Apposer, or other officer in the Exchequer noteth for a good debt

debt to the King by writing this word (*Tot*) unto it.

Turn. See *Turn*.

Tout temps prist & uncore est, that is to say in English, Alway readie, and is at this present: This is a kind of Plee in way of excuse or defence unto him that is sued for withholding any debt, or dutie belonging to the Plaintiffe. See of this, *Broke his Abridgement*, fol. 258.

Traile baston. See *Justices of triall baston*.

Traitor (*traditor, proditor*) See *Treason*.

Transgression, is a writ, called commonly a writ or action of trespassse. Of this *Fitzherbert* in his *Natura brevium*, hath two sorts: one *Vicountiel*, so called, because it is directed to the Sheriffe, and is not returnable, but to be determined in the Countie: The forme whereof differeth from the other, because it hath not these words: *Quare vi & armis, &c.* and this see in *Fitzherberts natura brev.* fol. 85. G. The other is termed a writ of trespassse upon the case, which is to be sued in the common Banke, or the Kings Bench, in which are alwayes used these words, *vi & armis, &c.* And of this you have *Fitzherberts nat. brev.* fol. 92. E. See *Trespas*. See the divers use of this writ in the *Register originall*, in the Table.

Transcript, anno 34. & 35. H. 8. cap. 14. is the copy of any originall written againe, or exemplified.

Transcripto Recognitionis facte coram Justiciariis itinerantibus, &c. is a writ for the certifying of a Recognizance, taken before Justices in Eyre, into the Chancerie, *Regist. orig. fol. 152. b.*

Transcripto pedis finis levati mittendo in Cancellariam, is a writ for the certifying of the foot of a fine levied before Justices in Eyre, &c. into the Chancerie, *eodem*, fol. 169. et *Register judicial*, fol. 14.

Travers, commeth of the French (*Traverser. i. transfigere*) It signifieth in our common law sometime to denie, sometime to overthrow, or undoe a thing done. Touching the former signification, take these words in *Wests Symbol. parte 2. titulo Chaucerie, Sect. 54.* An answer (saith hee, speaking of an answer to a bill in Chancerie) is that, which the Defendant pleadeth, or saith in Barre to avoid the Plaintiffes bill, or action, either by confession and avoiding, or by denying and traversing the materiall parts thereof. And againe, *Section 55.* A replication is the Plaintiffes speech or answer to the Defendants answer; which must affirme and pursue his bill, and confesse

and avoide, denie or traverſe the Defendants anſwere. And the formall words of this traverſe are in Lawyers French (*ſans ceo*) in Latine (*absque hoc*) in Engliſh (without that.) See *Kitchin. fol. 227. titulo Affirmative & Negative.* In the ſecond ſignification I find it in *Stawnfords prerog. cap. 20.* through the whole Chapter, ſpeaking of traverſing an Office : which is nothing elſe, but to prove, that an Inquiſition made of goods or lands by the Eſcheatour, is defective and untruely made. So traverſing of an Inditement, is to take Iſſue upon the chiefe matter thereof : which is none other to ſay, then to make contradiction, or to denie the poynt of the Enditement. As in preſentment againſt *A.* for a highway overflowne with water for default of ſcowering a ditch, which hee and they whoſe eſtate hee hath in certaine land there, have uſed to ſcower and cleanſe. *A.* may traverſe either the matter, *viz.* that there is no high way there, or that the ditch is ſufficiently ſcowed : or otherwiſe hee may traverſe the cauſe, *viz.* that hee hath not the land, &c. or that he and they whoſe eſtate, &c. have not uſed to ſcower the ditch. *Lamb. Eirenarcha. lib. 4. cap. 13. pag. 521. 522.* Of *Traverſe*, ſee a whole Chapter in *Kitchin, fol. 240.* See

the new booke of Entries. *verbo Traverſe.*

Treason (*traditio, vel prodition*) commeth of the French (*trahison*, i. *proditio*) and ſignifieth an offence committed againſt the amplitude and Majeſtie of the Commonwealth. *West. parte ſecond. ſymbol. titulo Inditement. ſect. 63.* by whom it is there divided into High treaſon, which other call *altam proditionem*, and Petit treaſon. High treaſon he defineth to bee an offence done againſt the ſecuritie of the Commonwealth, or of the Kings moſt excellent Majeſtie : whether it be by imagination, word, or deed : as to compaſſe or imagine Treason, or the death of the Prince, or the Queene his Wife, or his Sonne and heyre apparant, or to deſlowre the Kings wiſe, or his eldeſt Daughter unmarried, or his eldeſt ſonnes Wife : or levie war againſt the King in his Realme, or to adhere to his enemies, aiding them, or to counterfeit the Kings great Seale, privie Seale, or money, or wittingly to bring falſe money into this Realme counterfeited like unto the money of *England*, and utter the ſame : or to kill the Kings Chancellor, Treasuſer, Juſtice of the one bench, or of the other, Juſtices in Eyre, Juſtices of Aſſiſe, Juſtices of Oyer and Terminer, being in his place, and doing

of

of his office, *anno 25. Ed. prim. cap. 2.* or forging of the Kings seale Manuell, or privie signet, privie seale, or forraine coine current within the Realme, *anno 2. Mar. cap. 6.* or diminishing or impairing of money current, *an. 5. Elizab. ca. 11. & anno 14. El. ca. 3. & 18. Elizab. ca. pri.* and many other actions which you may reade there and in other places particularly expressed. And in case of this treason a man forfeiteth his lands, and goods to the King onely. And it is also called treason Paramount, *anno 25. Edw. 3. cap. 2.* The forme of Judgement given upon a man convicted of high treason is this. The Kings Sergeant after the verdict delivered, craveth Judgement against the prisoner in the behalfe of the King. Then the Lord Steward (if the traytour have beene noble) or other Judge (if hee be under a Peere) saith thus: N. Earle of P. For so much as thou before this time hast beene of these treasons indited, and this day arraigned for the same, and put thy selfe upon God and thy Peeres, and the Lords thy Peeres have found thee guiltie, my Judgement is that thou shalt from hence bee conveyed unto the Tower of London, whence thou camest, and from thence drawne through the middest of London to Tiburne,

and there hanged: and living thou shalt be cut downe, thy bowels to be cut out and burnt before thy face, thy head cut off, and thy body to bee divided in foure quarters, and disposed at the Kings Majesties pleasure: and God have mercy upon thee.

Petit treason is rather described by examples, then any where logically defined: as when a servant killeth his master, or a wife her husband, or when a secular or religious man killeth his Prelate, to whom he oweth faith and obedience. And in how many other cases petit treason is committed, see *Cromptons Justice of peace*. And this manner of treason giveth forfeiture of Escheats to every Lord within his owne fee, *anno 25. Edw. 3. cap. 2.* Of treason see *Bracton, lib. 3. tract. 2. cap. 3. nu. pri. & 2.* Treason compriseth both high and petit treason *anno 25. Edw. 3. stat. 3. cap. 4.*

Treasure troue (*Thesaurus in-vinitus*) is as much as in true French (*Tresor trouve*). i. treasure found: and signifieth in our common law, as it doth in the civile law, *id est, veterem depositionem pecunie, cujus non extat memoria, ut jam dominum non habeat.* l. 31. sect. prim. *de acquir. rerum Dom.* Neere unto which definition commeth *Bracton, lib. 3. tract. 2. cap. 3. num. 4.* And this trea-

sure found, though the civill law doe give it to the finder, according to the law of nature; yet the law of *England* giveth it to the King by his Prerogative, as appeareth by *Bracton ubi supra*. And therefore as hee also saith in the sixth Chapter, it is the Coroners office to enquire thereof by the Countrey to the Kings use. And *Stawford, pl. cor. lib. prim. cap. 42.* saith, that in ancient times, it was doubtfull, whether the concealing of treasure found, were felonie, yea or not: and that *Bracton* calleth it *gravem presumptionem, & quasi crimen furti*. But the punishment of it at these dayes, as he proveth out of *Fitzb. Abridgement. pag. 187.* is imprisonment, and fine, and not life and member. And if the owner may any way be knowne, then doth it not belong to the Kings Prerogative. Of this you may read *Briton* also, *cap. 17.* who saith, that it is every subjects part, as soone as hee hath found any treasure in the earth, to make it knowne to the Coroner of the Countie, or to the Bailiffes, &c. See *Kitchin* also *fol. 40.*

Treasurer, thesaurarius, cometh of the French (*tresorier. i. quæstor, præfectus fisci*) and signifieth an Officer, to whom the treasure of another, or others, is committed to be kept, and truly

disposed of. The chiefeft of these with us, is the Treasurer of England, who is a Lord by his office, and one of the greatest men of the land: under whose charge and government is all the Princes wealth contained in the Exchequer, as also the checke of all Officers any way imployed in the collecting of the Imposts, Tributes, or other revenues belonging to the Crowne. *Smith de Repub. Anglor. lib. 2. cap. 14.* more belonging to his office, see *anno 20. Edw. 3. cap. 6. & anno 31. Henr. 6. cap. 5. & anno 4. Edw. 4. cap. prim. & anno 17. ejusdem, cap. 5. & anno prim. R. 2. cap. 8. & anno 21. Henr. 8. cap. 20. & anno pri. Edw. 6. cap. 13.* *Ockams Lucubrations* affirme, that the Lord chiefe Justice had this authoritie in times past: and of him hath these words: *Iste excellens Sessor omnibus, que in inferiore vel superiore scacchio sunt, profficit. Ad nutum ipsius quelibet officia subiecta disponuntur: sic tamen ut ad Domini Regis utilitatem justo perveniant. Hic tamen inter cetera videtur excellens, quod potest his sub testimonio suo breve Domini Regis facere fieri, ut de thesauro qualibet summa liberetur, vel ut computetur quod sibi ex Domini Regis mandato prænovaverit computandum, vel si maluerit, breve suum sub aliorum testimonio faciat de his rebus.*

This

This high Officer hath by vertue of his Office at this day, the nomination of the Eschetours yearely throughout *England*, and giveth the places of all Customers, Controulers, and Searchers in all the Ports of the Realme. Hee sitteth in the Chequer Chamber, and with the rest of the Court; ordereth things to the Kings best benefit. Hee with the Barons may by Statute stall debts of three hundred pounds and under. And by Commission from his Majestie, hee with others joyned with him, letteth leases for lives or yeares, of the lands that came to the Crowne by the dissolution of Abbies. Hee by his office giveth warrant to certaine men to have their wine without imposit. Hee taketh declaration of all the money paied into the Receipt of the Exchequer, and of all Receivers accompts.

Then is there a Treasurer of the Kings household, who is also of the Privie Councell, and in the absence of the Steward of the Kings household, hath power with the Controuler and the Steward of the Marshallsea, without commission to heare and determine treasons, misprisions of treasons, murder, homicide, and blood-shed, committed within the Kings Pallace. *Stawf. pl. cor. lib. 3. cap. 5.* In the statute,

anno 28. Rich. 2. cap. 18. & anno 11. Hen. 7. cap. 16. mention is made of the Treasurer of *Calis*. In *Westm. 2. cap. 8.* of the Treasurer of the Exchequer, & *anno 27. Edw. 3. stat. 2. cap. 18. & anno 35. Eliz. cap. 4.* Of the Treasurer of the Navie, or Treasurer of the warres, or garrisons of the Navie, *anno 39. El. cap. 7.* Treasurer of the Kings Chamber. *anno 26. H. 8. cap. 3. & anno 33. ejusdem cap. 39.* Treasurer of the warres, *anno 7. Henr. 3. cap. prim. anno 3. Henr. 8. cap. 5.* Treasurer of the Chauncerie. *West. parte 2. symbol. titulo. Fines sect. 152.* Treasurer of the Kings Wardrobe, *anno 15. Edw. 3. stat. prim. cap. 3. & anno. 25. ejusdem, stat. 5. cap. 21.* whose office you have well set forth in *Fleta, lib. 2. cap. 14.* Treasurer of the Countie for poore Souldiers, *anno 35. Eliz. cap. 4.* And most Corporations through the Kingdome, have an Officer of this name, that receiveth their rents, and disburseth their common expenses.

Treate commeth of the French (*traire. i. emulgere*) and signifieth in the Common-law, as much as *taken out, or withdrawn*. As a Jurour was challenged, for that hee might not dispend 40. pounds, and for that cause hee was *treate* by the Statute, *old. nat. br. fol. 159.* that is, removed or discharged.

Breade of treate, anno 51. H. 3. Statute of bread, &c. what it signifieth, I cannot learne.

Trespasse (*Transgressio*) is a French word, signifying as much as *Mors, obitus, excessus*. The reason whereof I take to be, because in interpretation it is a passage from one place or estate to another: for in *Britton, cap. 29.* I find *trespassants* for *passengers*. In our common law and language, it is used for any transgression of the law, under treason, felonie, or misprision of treason, or off felonie, as may bee gathered out of *Stawf. pl. cor. fol. 38.* where hee saith, that for a Lord of the Parliament to depart from the Parliament without the Kings licence, is neither treason nor felonie, but trespasse. And againe, *fol. 31.* saying, that where it was wont before the Statute made, anno *prim. Edm. 2.* called *Statutum de frangentibus prisonem*, that the breach of prison was felonie, if it were the Kings prison: it is sithence but trespasse, except the prisoner were committed for felonie. But it is most commonly used for that wrong or damage, which is done by a private man to the King, as in his *Forest, pl. cor. lib. 2. cap. 18.* or to another private man. And in this signification it is of two sorts: trespasse generall, otherwise termed, trespasse *vi et ar-*

mis; and trespasse especiall, otherwise called trespasse upon the case. And this seemeth to bee without force. Termes of the Law. Action upon the case, as appeareth by *Kitchin, fol. 176.* The former I take to be called generall, because it riseth from that generall ground in Law, that whatsoever is done by any private mans humour *vi & armis*, is an offence. The latter I call especiall, because *Kitchin* calleth the other generall: and another reason may bee this, because it springeth from a particular case or fact, not contained under any other generall head. And the action lying for this trespasse, is otherwise called an action upon the case, as may be gathered out of divers places under the title *Trespasse*, in *Brooke* his Abridgement. How to distinguish the forme of these writs or actions, See *Fitzherb. nat. br. fol. 86. l. 8 & 87. H. 1.* in an action of trespasse, this is perpetuall, that the Plaintiffe sueth for dammages, or the valew of the hurt done unto him by the Defendant. It seemeth an hard thing to distinguish these two kinds of trespasse so, as to bee able to say when it is a trespasse *vi et armis*, and when upon the case: as may well appeare to him that shall peruse this title in *Brooke*. But this is to be left to the experience of

of grave and skilfull Pleadere. I find moreover in *Kitchin*, fol. 188. that there is a *trespassse locall*, and *trespassse transitory*, *trespassse locall* is that, which is so annexed to a place certaine, as if the Defendant joyne issue upon the place, and traverse the place, onely by saying, *Absque hoc*, that hee did the trespassse in the place mentioned in the declaration, and averre it, it is enough to defeate the action. *Trespassse transitorie* is that, which cannot be defeated by the Defendants traverse of the place, saying: Without that I committed the trespassse in the place declared: because the place is not materiall. Examples of both you have set downe by *Kitchin*, in the place above named, to this effect: traverse by (*Absque hoc*) of trespassse in batterie, or goods brought in, is transitorie, and not locall: as it is of trees cut, or herbes.

And therefore in trespassse transitorie, the place shall not make issue, neither is it traversable: no more then is a trespassse upon a case of an Assumption. *Bracton* in his fourth booke, cap. 34. num. 6. divideth *transgressionem* in *majorem* & *minorem*: which place reade. See also great diversitie of trespassses in the new booke of Enteries. verbo *Trespassse*.

Triall (*triatio*) is used in our

common law, for the examination of all causes civill or criminall, according to the lawes of our realme. Of this word *Stam.* pl. cor. lib. 2. cap. 26. writeth to this effect. There was a statute made *prim. & secund. Philip. & Mar. cap. 10.* to this purpose. And be it farther enacted by the authoritie aforesaid, that all trials hereafter to be had, awarded or made for any treason, shall bee had and used according to the due order and course of the common lawes of this Realme, and not otherwise, &c. By this word (*triall*) saith *Stamf.* in that place, some understand as well the inquest that indicteth a man, as the inquest upon the arraignment, that attaineth or acquitteth him. For these two make but one intire triall, that every man is to have, when hee is impeached of treason. But others have answered to this, that triall in common speech, is the triall that a man is to have, after he is indicted, and not before. For in Law the Inditement is nought, but the accusation against him, which he is to make answer unto, and that being tried, it either attainteth, or acquitteth him. So that the triall is the issue, which is tried upon the inditement, and not the Inditement it selfe. For that is no part of the thing which trieth, but the thing which

is tried, and the offence. And so is this word Triall understood in the Statute, *anno 33. Henr. 8. cap. 23.* where it saith thus; Must bee indighted within the Shires or places, where they committed their offences, and also tryed by the Inhabitants, or Free-holders. so hee putteth a difference betweene Inditement and Tryall, as hee doth also afterward in these words: There to bee indited and tryed of their offences, &c. Thus farre *Stawnsf. Sir Tho. Smith, de Repub. Anglo.lib. 2. ca. 5.* saith, that by order and usage of England, there are three trials, that is three wayes and manners, whereby absolute and definite Judgement is given by Parliament, which is the highest, and most absolute, by battell and great assise: which he severally describeth in three chapters following, though not so fully as the thing requirereth. But of the great Assise, he speaketh at large in the three and Twenty chapter of the same book. And of these trialls see more in *Stawnsf. pl. cor. lib. 2. cap. pri. 2. & 3.* whereof hee divideth the great Assise into two sorts: one proper to Barons of the Parliament, which is by 20. or 18. of their Peeres: the other common to others of lower condition, which is by 12. men, that be neighbours to the place where

the offence was committed, And of these you may reade him at large in the said Chapters there following. See *Twelve men.* See the *New Booke of Entries, verbo Triall.*

Tribing, (*Tribinga*, vel *Tri-thinga*) seemeth by a place in *Edward the Confessors Lawes*, set out by Master *Lamberd, num. 34.* to be the third part of a Shire or Province, otherwise called (*Lethe*) which wee now call (*Lette.*) The same law doth *M. Camden* mention, *pag. 102. and 103.* This Court is above a Court Baron, and inferiour to the shire, or county. This word is also used in the sentence of excommunication upon the great Charter and Charter of the Forest, denounced in the dayes of *Edward the first*, as it is latined in the booke called *Pupilla oculi, parte 5. cap. 22. A. I.* in these words: *Visus autem de franco plegio sic fiat, sc. quod pax nostra teneatur, & quod Tribinga integra sit, sicut esse consuevit, &c.* Of this *Flita lib. 2. cap. 61. sect. final.* writeth thus; *Sciendum est quod alie potestates erant super Wapentakia, que Tribinga dicebantur, eo quod erat tertia pars provincie, qui vero super eas dominabantur, trishingreves vocabantur, quibus deferebantur cause que non in Wapentakiis poterant definiri in Schiram sicq; quod vocatur*

Hundredum, jamper variationem locorum & idiomatis, *Wapentakie* appellatur, & tria vel quatuor vel plura *Hundreda* solebant trithinga vocari: & quod in trithingis non poterant diffiniri in *shiram*. i. in comitatum deferrebatur terminandum. Modernis autem temporibus pro uno et eodem habentur apud homines *Hundreda Wapentakia* & trithinga. Learne whether those divisions in Yorke shire called ridings, be not quasi trithings. Of this *Roger Hoveden*, parte poster. suorum *annal.* fol. 346. b. hath the same words in effect.

Treswell of double soled shoes, anno 2, & 3. *Edw.* 6. cap. 9. which as I have heard, should rather be written *Creswel*, signifying the broad edge or verge of the shoe sole round about.

Trinitie house, is a certaine house at *Depesford*, which belongeth to a Company or Corporation of Sea-faring men, that have power by the Kings Charter, to take knowledge of those that destroy Sea-markes, and to redresse their doings, as also to correct the faults of Saylor, &c. and to take care of divers other things belonging to Navigation, and the Seas. v. anno. 8. *Elizabeth*, cap. 13. & anno 35. *ejusdem*, cap. 6.

Trink, is a kind of Net to fish withall, anno 2. *H.* 6. cap. 15.

Triours, be such as be chosen

by the Court to examine whether a challenge made to the panell, or any of the panell be just, yea or no, *Broke*, titulo *Chalenge.* fol. 122. and *Old nat. br.* fol. 158.

Tritu, alias *Tristis*, is an immunity from that attendance in the Forest, whereby every man dwelling in the Forest, is tied to bee readie, holding of a Grey-hound, when the Lord of the Forest is disposed to chase within his Forest, at such place as hee shall bee appointed, or else to be amerced for his default. *Manwood* parte pri. of his *Forest lawes.* pag. 86. and *Cromptons Jurisd.* fol. 192. & 197.

Tronage (*Tronagium*) is a kind of tolle, *Westm.* 2. cap. 25. anno 13. *Edw.* 1. taken (as it seemeth) for weighing. For I find in *Fleta.* lib. 2. cap. 12. sect. Item *utnas* that *trona* is a beame to weigh with. See *Weight*.

Trover, commeth of the French (*Trouver. i. Invenire*) It signifieth in our common law, an action which a man hath against one that having found any of his goods, refuseth to deliver them upon demand. See the new booke of Entries, verb. *Trover*.

Troy weight (*Pondus Troia*) See *Weight*.

Tumbrell (*Tumbrellum*) is an engine of punishment, which ought to bee in everie libertie that hath view of Frank pledge,

for the correction of Scolds and unquiet women, *Kitchin*, fol. 13. a. New book of Entries. *Franchisf.* 2. & *Quo warranto*. 1. See *Cucking stoole*.

Turne, is a measure of Oile or Wine, conteining twelve score and twelve Gallons, *anno* 1. *Rich.* 3. cap. 12. that is foure Hogf-heads.

Tunnage. See *Tonnage*.

Turbarie (*Turbaria*) is an Interest to dig Turves upon a Common, *Kitchin*, fol. 94. *Old natura brevium*, fol. 70. It commeth of the rude Latine word (*Turba*) which is used for a Turfe. *Lynd*, in *provin. de decimis cap. finali*.

Turmerick (*Turmerica*) is a certaine root of an herbe growing in *Arabia*, as I have been informed, very wholsome for divers diseases in horses, and sometime used for man also in case of Jaundies. It is reckoned among the garbeable drugs, *anno* 1. *Jaco.* cap. 19.

Turn (*Turnum*) is the Sheriffes Court, kept every yeare twice : once after Easter, and againe, after Michaelmas, *Magna Charta*, caput 35. and that within one moneth after each Feast, *anno* 3. *Edw.* 3. cap. 15. from this court are exempted only, Archbishops, Bishops, Abbots, Priors, Earles, Barons, all religious men, and women, and all such as have

Hundreds of their own to bee kept. And these are not bound to appeare there except their appearance be especially required upon some extraordinary cause, *anno* 25. *Henr.* 3. cap. 10. and *Britton*, cap. 29. It seemeth to bee called the *Sheriffes Turn* of the French word (*Tour*. i. *ambitus*, *circuitus*, *vicissitudo*) and is of *Britton* called *Tour*, cap. 61. *sub fine capituli*, as if wee would say, (The Sheriffe his course) for (as *Britton* noteth in the said twentie nine chapter) that which before the Sheriffe, is called the *Sheriffes Turne*, is called in the Court of Franchises and Hundreds, the view of Frank-pledge : wherein inquirie is especially made of such as bee not in any Dozin : with whom *Fleta* agreeth : And by *Fleta* it appeareth that this Turne was the *Sheriffes* course to keepe his Court in everie Hundred, *lib.* 2. cap. 52. *in principio*. So that as the inferior Courts had their times to take knowledge of those, and other causes belonging to their cognisance : So the Sheriffe had his course or Turne to doe the like at these two severall seasons. That if there were any defects in them, it might bee redressed in these, and Gods peace and the Kings so much the more carefully observed. This, as Master *Lamberd* saith, was of old called also

also the Sheriffes moote, *lib. 4. cap. 4.* In this Court (as Britton saith *ubi supra*) the Sheriffe causeth to bee found out twelve of the most sage, loyall and sufficient men of all the Hundred (for hee kept his turne twice every yeare in each Hundred. *Magna charta. cap. 35. & Britton ubi supra*) whom hee charged upon their oathes, to present the truth touching the articles ministred unto them, and set downe by Britton in the same Chapter. This done he put all other to their oathes, according to their dozins and villages, truly to present unto the former twelve all things concerning such articles, as by them they should be asked of. But since the Hundred Courts are all called to the county by the statute, *anno 14. Edm. 3. cap. 3. Statut. pri.* these Turnes be likewise kept in one chiefe place of every shire, and not severally in every Hundred, as before they were. Of this you may reade more in Britton or in *Cromptons Jurisdic. fol. 230.* and in the *Mirror of Justices, lib. pri. cap. de Turnes.*

Turney (*Turneamentum*) cometh of the French (*Tourney i. Decursorium*) It signifieth a martiall exercise of Knights or Souldiers fighting one with another in disport, and is thus de-

fined, *ca. felicis Extra de Torneamentis. Torneamenta dicuntur Nundine vel ferie, in quibus milites ex condicito convenire, & ad ostentationem virium suarum, & audacix, temerè congregi solent.* This word is used in the statute, *anno 24. Henric. octau. capit. 13.* and as I have heard, it signifieth with us in England those combats, that are made with arming swords on Horse-backe. And I thinke the reason of the name to proceed from the French (*Tourner. i. vertere*) because it consisteth much in agility both of horse and man.

Turno vececomitum, is a writ that lyeth for those that are called to the Sheriffes turne out of their owne Hundred. *Register, c. rig. fol. 174.*

Tuain nithes gest (*hospes duarum noctium*) Roger Hoveden, *parte poster. suorum annalium. fol. 345. b.* who if he did harme to any, his hoste was not answerable for it, but himselfe. See *Tbrid-nithes* *hawan man.*

Twelve men (*Duodecim homines legales*) is a number of twelve persons, or upwards to the number of 24. by whose discretion all tryals passe both in civill and criminall causes, through all Courts of the common law in this Realme. First for civill causes, when proofe is made of the

matter in question, as the parties and their councell thinke good on both sides, the point of the fact, that they are to give their verdict of, is delivered likewise unto them, which wee call the issue: and then are they put in minde of their oath formerly taken, to doe right betweene party and party, and so sent out of the Court severally by themselves to consider upon the evidence of both sides, untill they be agreed; which done, they returne to the Court againe, and deliver their verdict by the mouth of the foreman. And according to the verdict, Judgment afterward passeth, either condemnatory for the Plaintiffe, or absolutory for the Defendant. These twelve bee called twelve *milites*. *Glanvile, lib. 2. cap. 14. & 15.* and so be they in *Bracton* divers times: but that word is altered.

In causes criminall there bee two sorts of Enquests, one called the grand Enquest, and the other the Enquest of life and death. The grand Enquest is so called, either because it consisteth commonly of a greater number then twelve, as of twenty foure, eightene, or sixteene at the least, or else because all causes criminall or penall first passe through them: whereas the other Enquest is especially appointed for

one or few matters touching life and death, committed to their considerations. Those of the grand Enquest are also called by *Bracton* 12. *milites lib. 3. tract. 2. cap. pri. num. 2.* because they were wont to bee Knights, as it seemeth, and not inferiours, except so many Knights could not bee found, *Idem eodem, num. 1. in fine.* And their function is to receive all presentments made unto them of any offence, and accordingly to give their general opinion of the presentment by writing either these words (*Billa vera*) upon the bill of presentment, which is an inditement of the party presented: or else this word (*Ignoramus*) which is an absolving of him. Now as criminall causes bee of two sorts, either capitall touching life and member, or finable: so is there a double course of these Inditements. For in causes onely finable, the party indited must either travers the Inditement by denying it, and so it is referred to a petit Jury, whereby hee is either convicted or discharged of the crime, or else he confessing it, the Court setteth his fine upon his head without more worke. But in matters of life and death, the party indited is commanded to hold up his hand, and answer (guilty) or (not guilty) if (guilty) he standeth convicted by his owne confessi-

feſſion : if (not guilty) he is farther referred to the Enqueſt of life and death : which conſider upon the prooſe brought againſt the priſoner, and accordingly bring in their verdiſt (Guilty) or (not Guilty) ſo is hee judged to die, or delivered by the Court. Of this reade more in Inditement, Aſſiſe, Jury. See the ſtatute, *anno 35. H. 8. cap. 6. & 37. ejusdem, cap. 22. & anno 2. Ed. 6. cap. 32. & anno 5. Eliz. cap. 25.*

V A

Vacation (*vacatio*) hath an eſpeciall ſignification in this Kingdome, being uſed for all that time reſpectively which paſſeth between terme and terme. at London. And when ſuch times, beguine and ended in our auncſtors dayes, ſee Roger Hovedens *annals parte poſteriori, fol. 343. a.* where you ſhall find that this intermiſſion was called (*pax Dei & eccleſie.*)

Vaccarie, aliàs vacharie (vaccaria, aliàs vacheria) ſeemeth to be a houſe to keep kine in, *Fleta, lib. 2. cap. 41. ſect. Item inquiratur 12. and Cromptons Jurisd. fol. 194.* in theſe words : without warrant no ſubject may have within the Forreſt a vacarie. But in the ſtatute *anno 37. H. 8. cap. 16.* I finde vacharie to bee, as it were a ſpeciall proper name, of a certaine quantitie and compaſſe of ground

within the Forreſt of *Aſhedowne.*

Valer (valentia, valor) The word is in it ſelfe plaine enough: But I cannot omit one place in *M. Weſt. parte 2. ſymbol. titulo Inditements. ſect. 70. V. W.* touching the difference betweene value and price. Theſe be his words. And the value of thoſe things, in which offences are committed, is uſually comprised in Inditements, which ſeemeth neceſſary in theft, to make a difference from petit larceny : and in treſpaſſe, to aggravate the fault, and increaſe the fine. But no price of things, *ſere nature*, may be expreſſed, as of Deere, of Hares, &c. If they bee not in Parkes, and Warrens, which is a liberty, *anno. 8. Edward 4. fol. 5.* nor of Charters of land. And where the number of the things taken, are to be expreſſed in the Inditement, as of young Doves in a Dove-houſe, young Hawkes, in a wood, there muſt bee ſaid (*pretii*) or (*ad valentiam*) but of divers dead things *ad valentiam*) and not (*pretii*) of coine, not current, it ſhall bee (*pretii*) but of coine current, it ſhall neither bee ſaid (*pretii*) nor (*ad valentiam*) for the price and value thereof is certaine. But of counterſeit coine, ſhall bee ſaid (*ad valentiam*) and in counterſeiting of coine ſhall not bee ſaid (*decem libras in denariis*)

riis Domina Regina) nor (*in pecunia Domina Regina*) but (*ad instar pecunie Domine Regine.*)

Valour of mariage (*Valore maritalitatis*) is a writ that lyeth for the Lord, having profered covenable mariage to the Infant, without disparidgement, against the Infant, comming to his yeares, if hee refuseth to take the Lords offer. And it is to recover the value of the mariage. *Regist. orig. fol. 164. Old. nat. br. fol. 90.*

Variance, commeth of the French (*varier. i. alterare*) it signifieth in the common law, an alteration, or change of condition after a thing done. For example, the Communaltrie of a Towne make a composition with an Abbot. Afterward this Towne by a graunt from the King obtaineth Bayliffes. This is a variance, and in this case, if the Abbot commence any suite for breach of the composition, hee must vary from the words of the Commualtrie set downe in the Composition, and begin against the Bayliffes and the Commualties. *Brooke tit. Variance, fol. 292.* It is also used for an alteration of some thing formerly laid in a plee, which is easilier knowne what it is, then when it may be used, as it appeareth by *Brooke* through the whole title afore-said : See *variance* in the new

booke of *Entries.*

Vassall, (*vassallus*) signifieth him, that holdeth land in fee of his Lord, *Hot. verbo Feudal* : wee call him more usually a Tenent in fee : whereof some owe fidelitie and service, and are called *vassalli jurati* : some that owe neither, and are called *vassalli injurati*. But of this later sort, I thinke that in England wee have not any. Of these thus writeth *Hotom.* in his disputations upon the Feuds, *cap. 3. Proprie is vassa dicitur, qui ab Imperatore regale feudum accepit, vassallus autem in proceusibus, diminutivo nomine qui ab illo feudale beneficium adeptus est : quasi qui in vassi fide & clientela est, &c. M. Skene de verbor. signif. verb. Ligentia*, saith, that *vassallus* is divided into *Homologum*, & *non homologum* ; *Homologus* is he that sweareth service with exception of a higher Lord : and *non homologus*, is he that sweareth without exception, all one with *Ligem*. And the same Author *verb. Vassallus*, saith, that it is *vassallus, quasi bassallus, id est, inferior socius*. From the French (*bas. i. humilis, dimissus*) and the Dutch word (*gesel. i. socius* :) his reason is, because the vassall is inferior to his Master, and must serve and reverence him : and yet he is in manner his companion, because each of them, is obliged

one to the other. He saith farther out of *Cujacius, lib. prim. de Feud.* that *leades, leodes, fideles, homines nostri, feudatarii, ministeriales, beneficiarii, beneficiati, vassalli*, signifie almost all one thing. And a little after hee saith thus: In the lawes of the Feuds, *vassallus* is called *fidelis, quia fidelitatem jurat*. Amongst vassals, the first place of dignitie is given to them that are *Duces, Marchiones, Comites*, and are called *Capitanei Regni*. The second is granted to Barons, and others of like estate, and are called *Valvasores Majores*. The third to them who are called *Gentlemen or Nobles*, holding of Barons; which also may have under them vassals that be Gentlemen. And such vassals holding in chiefe of Barons, are called *Valvasores Minores*. And they which hold of Gentlemen, are called *Vassalli, valvassini, seu minimi valvasores*. But in this Realme (hee speaketh of Scotland) they that hold of Barons, are called *Milites*, and they that hold of them, are called *Subvassores*. Thus far Master *Skene*.

Vasto, is a writ that lyeth for the heire against the tenent, for terme of life, or of yeares, for making waste, or for him in the Reversion or remainder, *Fitzb. nat. br. fol. 55. Regist. orig. fol. 72. & 76, and Regist. Judicial. fol. 17.*

21, 23, & 69. v. anno 6. Edw. pri. cap. 5.

Vavasour (*vavasor, aliàs, valvasor*) is one that in dignity is next unto Baron. *Camden Britan. pag. 109. Bracton, lib. prim. cap. 8.* saith thus of this kind of men: *Sunt & alii potentes sub Rege, qui dicuntur Barones, hoc est, robur belli: sunt & alii qui dicuntur Vavasores, viri magnæ dignitatis. Vavasor enim, nihil melius dici poterit, quàm vas sortitum ad valetudinem. Jacobutius de Franchis in præludio Feudorum. tit. prim. num. 4. &c.* calleth them *Valvasores*, and giveth this reason of it: *Quia assident valvæ. i. porte Domini in festis, in quibus consueverunt homines curtizare & eis reverentiam exhibere, propter Beneficium eis collatum, sicut libertus patrono: M. Camden in his Britan. pag. 108.* hath these words of them: *Primis etiam Normannorum temporibus, & Thani proximi à Comitibus in dignitate censebantur. Et valvasores majores (si illis qui de fendis scribunt credimus) iidem fuerunt Barones.*

Venditioni exponas, is a writ Judiciall, directed to the under-Sheriffe, commanding him to sell goods that hee hath formerly by commandment taken into his hands, for the satisfying of a judgement given in the Kings Court, *Register Judicial, fol. 33. b.*

Venire facias, is a writ judiciall, and goeth out of the record, lying where two parties plead, and come to issue, *sc.* upon the saying of the Countrey. For then the partie Plaintiffe, or Defendant shall have this writ directed to the Sheriffe, that hee cause to come twelve lawfull men of the same Countrey, to say the truth upon the said issue taken. And if the Enquest come not at the day of this writ returned, then shall goe a *Habeas corpora*, and after a Distresse untill they come. *Old nat. br. fol. 157.* See how diversly this writ is used in the table of the *Register Judiciall*. There is also a writ of this name, that is originall, as appeareth in the *Register orig. fol. 200. b.* which *M. Lamberd* in his *Processess* annexed to his *Eirenarcha* saith to be the common Processe upon a nie presentment not being felonie, nor especially appointed for the fault presented by Statute. Whereof he setteth downe an example in the same place. See also the new booke of Entries, *verbo Enquest. fol. 253. columna 1, 2, & 3.*

Venire facias tot matronas. See *Ventre inspiciendo*, See *Lamb. Eirenarcha, li. 4. ca. 14. pa. 532.*

Venew (vicinetum) is taken for a neighbour, or neare place. As for example, twelve of the Assize ought to bee of the same *Venew*

where the demand is made, *Old nat. br. fol. 115.* and in the statute *anno 4. H. 4. ca. 26. & anno 25. H. 8. cap. 6.* I find these words : And also shall returne in every such panell upon the (*venire facias*) six sufficient Hundreders at the least, if there be so many within the hundred where the *Venew* lieth.

Ventre inspiciendo, is a writ for the search of a woman, that with shee is with child, and thereby with-holdeth land from him that is the next heire at the common law, *Register originall. fol. 227. a.*

Verdour (viridarius) commeth of the french (*verdeur. i. Saltuarius, vel custos nemoris*) hee is (as *M. Manwood, parte pri.* of his *Forest lawes, pag. 332.* defineth him) a Judiciall Officer of the Kings Forest, chosen by the King, in the full countie of the same Shire, within the Forrest, where he doth dwell, and is sworne to maintaine, and keepe the Assises of the Forest, and also to view, receive, and inrolle the Attachements and presentments of all manner of Trespasses of the Forest of vert, and venison. And the same Authour upon the first article of *Canutus* Charter, in the beginning of the same part, saith, that these in the Saxons times were called (*Pagened*) being foure in number, and they chiefe

chiefe men of the Forest, as then they were. Their Fee was in *Canonic* time, each of them everie yeare of the Kings allowance, two horses, one of them with a saddle, another of them without a saddle, one Sword, five Javelings, one Speare, one Shield, and ten pounds in money. These foure (as appeareth by the said Charter, *num. 11.*) had *regalem potestatem*, and might proceed to a three-fold judgement: And if any man offered them, or any of them violence, if hee were a free man, hee should loose his freedome, and all that hee had: if a villein, hee should loose his right hand. And all the Officers of the Forest were to bee corrected and punished by them, *ibidem, num. 10.* The verdour is made by the Kings writ, *Cromptons Jurisd. fol. 165.* the forme of which writ you have in *Fitzherb. nat. brev. fol. 164.* which is directed to the Sheriffe for the choise of him in a full Countie, by the assent of the said Countie. Yet if a verdour bee suddenly sicke or dead, at the time of the Justice seate, a new may be chosen without a writ, *Manwood, parte prim. pag. 72.* the office is (as *Crompton* saith *loco allegato*) properly to looke to the vert, and to see that it be well maintained. Also when any forfeiture is taken in the Forest be-

fore the Foresters, or other ministers: the price thereof shall be delivered to the verdour, who is to answer for it before the Justices in *Eyre*. And if hee die, his heire is chargeable therewith. *Crompton ibidem.* The forme of his oath at his admittance you may see in *Manwoods* first part of his Forest lawes: *pag. 51.* who there calleth him *verderour*, *alias, verdictor*. You shall truely serve our Sovereigne Lord the King, in the office of a *verderor* of the Forest W. you shall to the uttermost of your power, and knowledge, doe for the profit of the King, so farre as it doth appertaine unto you to doe. You shall preserve and maintaine the ancient rights and franchises of his Crowne: you shall not conceale from his Majestie any rights or priviledges, nor any offence either in vert or venison, or any other thing. You shall not withdraw, nor abridge any defaults, but shall indeavour your selfe to manifest and redresse the same, and if you cannot doe that of your selfe, you shall give knowledge thereof unto the King, or unto his Justice of the Forest. You shall deale indifferently with all the Kings liege people: you shall execute the lawes of the Forest, and doe equall right and justice, as well unto the poore, as unto the rich

in that appertaineth unto your office : you shall not oppresse any person by colour thereof, for any reward, favour or malice. All these things you shall to the uttermost of your power observe and keepe. Their office is farther expressed, *codem*, pag. 93. which is to sit in the Court of Attachement, to see the attachments of the Forest, to receive the same of the Foresters and Woodwards, that doe present them, and then to enter these attachments into their Roles.

Verdict, (*verdictum*) is the answer of a Jurie or Enquest made upon any cause civill or criminall, committed by the Court to their consideration or triall. And this verdict is two-fold : either generall or especiall, *Stannf. pl. cor. lib. 3. cap. 9.* A generall verdict is that, which is given or brought into the Court, in like generall termes to the generall issue : as in an action of *disseisin* the Defendant pleadeth, *No wrong, no disseisin*. Then the issue is this in generall, whether the fact in question be a wrong or not. And this committed to the Jurie, they upon consideration of their evidence, come in and say, either for the Plaintiffe, that it is a wrong, and *disseisin* : or for the Defendant, that it is no wrong, no *disseisin*. And againe, the prisoner at the barre

pleading, Not guiltie : the Enquest in like generall termes bring in their verdict, either for the King, Guiltie ; or for the prisoner, Not guiltie. A speciall verdict is that, whereby they say at large, that such a thing, and such, they find to be done by the Defendant, or Tenant, so declaring the course of the fact, as in their opinions it is proved : and for the qualitie of the fact, they pray the discretion of the Court. And this speciall verdict, if it containe any ample declaration of the cause, from the beginning to the end, is also called a verdict at large. Whereof reade divers examples in *Stannf. pl. cor. lib. 3. cap. 9.* and one or two in *Lisleton*, fol. 78, & 79. See the new booke of Entries. *verb. Verdict.*

Verge, (*virgata*) may seeme to come from the French (*verger*. i. *viridarium*, *hortus*.) It is used here in England for the compasse about the Kings Court, that boundeth the jurisdiction of the Lord Steward of the Kings household, and of the Coroner of the Kings house, and that seemeth to have bene 12. miles compasse, *anno 13. R. 2. Stat. prim. cap. 3. & Fitzh. nat. br. fol. 241. B. and Britton, fo. 68. b. 69. a. and Fleta, lib. 2. cap. 2. and Sir Edward Cookes Reports, li. 4. fol. 47. a.* For this see the Statute,

tute, *anno 33. Hen. 8. cap. 12.* toward the end. But *Fleta* saith, that this compasse about the Court is called *virgata*, à *virga*, *quam Mariballus portat ut signum sue potestatis, lib. 2. cap. 4. sect. prim.* Verge hath also another signification, and is used for a sticke, or rod, whereby one is admitted tenant, and holding it in his hand sweareth fealtie unto the Lord of a manour: who for that cause is called Tenant by the Verge. *Old. nat. br. fol. 17.*

Vergers (virgatores) be such as cary white wands before the Justices of either banke; &c. *Fleta, lib. 2. cap. 38.* otherwise called Porters of the Verge.

Very Lord, and very Tenant (verus Dominus, & verus Tenens) are they that be immediate Lord and Tenant one to the other; *Brooke, titulo, Hariot, fol. 23.* In the *old. nat. br.* and in the writ (*Replegiare de averiis. fol. 42.*) I find these words: And know yee that in taking of leases, six things are necessary: that is to say, very Lord and very Tenant, Service behind, the day of the taking, seisin of the services, and within his Fee. And know yee, that a man is not very tenant, untill he have attuned to the Lord by some services. So that by *Brooke*, the very Lord, and the very Tenant, must be immediate, and by this booke there must be an ac-

nowledgement. See *anno 19. Hen. 7. cap. 15.* See *Tenant.*

Vert (viride) is made of the French (*verd. i. viridis*) and signifieth with us in the lawes of the Forest, every thing that doth grow, and beare greene lease, within the Forest, that may cover and hide a Deere. *Manwood* in the second part of his Forest lawes, *fol. 6. a. and fol. 33. b.* (with whom also *Crompton* agreeth, *fol. 170.* of his Jurisd. And *vert* (as the same Author saith, *codem, fol. 34.*) is divided into *Over vert*, and *Neather vert*. *Over vert*, is that, which the Lawyers call (*Hault bois*) and *Neather vert*, is that which they call (*South bois.*) And of this you may reade him in his second part of Forest lawes, *cap. 6. per totum.* Where you shall find, that hee divideth *vert* into generall, and speciall: Generall is, as it is bove defined: *vert* speciall, is every tree and bush within the Forest to feed the Deere withall: as Peare trees, Crab-trees, Hawthornes, Black-bush, and such like. And the reason of this name is, because the offence of destroying of such *vert*, is more highly punished then of any other, according to the quantitie thereof, *codem, cap. 6. num. 2. fol. 35. a.*

Vervise, otherwise called Plonkets, *anno 1. R. 3. cap. 8.* a kind of cloath.

Vesses, anno 1. R. 3. cap. 8. & anno 14. & 15. H. 8. cap. 11. otherwise called, Set clothes.

Vesture (*Vestitura*) is a French word signifying a garment: but in the use of our common Law, turned metaphorically to betoken a possession, or an admittance to a possession. So it is taken, *Westm. 2. cap. 25. anno 13. Ed. prim.* And in this signification is it borrowed from the Feudists, with whom (*Investitura*) signifieth a delivery of possession by a speare, or staffe, and *vestitura*, possession it selfe. *Hotoman, in verbis feudal. verbo Investitura.*

Vesture of an acre of land, an. 4. *Ed. prim. stat. prim.* is the profit of it, & anno 13. *Edward 1. cap. 25.*

Vice-treasurer of the Exchequer, 1. *Jacob. 26.* See *Under-treasurer of England.* See *Treasurer of the Exchequer.*

View of frank pledge, (*visus Franci plegii*) is the office which the Sheriffe in his County Court, or the Bayliffe in his Hundred, performeth in looking to the Kings peace, and seeing that every Free-man be in some pledge. This is called of *Bracton, lib. 2. cap. 5. nu. 7. in fine, Res quasi sacra, quia solam personam Regis respicit, & quod introductus sit pro pace & communi utilitate, eodem, cap. 16. num. 8. in fine.* See *franke*

pledge, and *Leete*, and *Decennier.* See the new booke of *Entries*, verb. *view of frank pledge.*

Veiours (*visores*) commeth of the French (*Veoyer. i. cernere, insu-eri, despicere, prospicere, videre*) and signifieth in our common Law those, that are sent by the Court to take view of any place in question, for the better decision of the right. *Old nat. br. fol. 112.* So doth *Bracton* use it, *lib. 5. tract. 3. cap. 8. per totum.* It signifieth also those, that are sent to view such as essoine themselves *de malo lecti*, whether they be in truth so sicke, as they cannot appeare, or whether they counterfeit. *Bracton, lib. 5. tract. 2. cap. 10. & cap. 14. per totum.* Lastly, it is used for those that are sent or appointed to view an offence, as a man murdered, or a Virgin ravished. See *View.*

Vicario deliberando occasione cuiusdam Recognitionis, &c. is a writ that lieth for a spirituall person imprisoned upon forfeiture of a Recognisance, without the Kings writ. *Reg. orig. fol. 147.* See *statuto mercatorio contra personam ecclesiasticam.*

Vicin & venellis mundandis, is a writ that lyeth for a Major and Bayliffes of a Towne, &c. For the cleane keeping of their streets. *Regist. orig. fol. 267. b.*

View (*visus*) commeth of the French

French (*veve. i. visus, aspectus, conspectus, prospectus*) and signifieth with us, the act of viewers. For (as the Author of the Termes of Law saith) when any action reall is brought, and the Tenent knoweth not well what land it is, that the Demandant asketh, then hee may pray the view: that is to say, that hee may see the land, which is claimed: of this Britton speaketh, *cap. 45.* This point of proceeding wee have received from the Normans, as it appeareth by the Grand customary, *cap. 66.* where you shall reade to this effect. It is to be knowne that there bee divers sorts of viewes: one of a Fee, another of a man in sicknesse, another of an offence, as of a man slaine, or a Virgin deflowred: all which hee describeth in that place; and againe, *cap. 80. & 96.* which are worth the reading: this view at this day is used in an Assise of rent service, rent charge, or rent seck. *Fitzb. nat. br. fol. 178. D.* and in a writ *de Curia claudenda. Idem, fol. 128. B.* In a writ of Nuisance. *Idem, fol. 183. L. N. O.* In a writ *Quo iure. Idem, fol. 128. L.* In the writ *de rationabilibus divisis. Idem, fol. 129. D.* And in the writ *de secta ad molen-dinum, Idem, fol. 123. B.* See the new booke of Entries *verb. View,* and see *Fleta* how this view is made, *lib. 4. cap. 6.* See *Veitors.*

Vicechamberlaine, called under-chamberlaine, *anno 13. R.2. stat. 2. cap. 1.* is a great Officer in Court next under the Lord Chamberlaine, and in his absence hath the command and controlement of all officers superior and inferior whatsoever, appertaining to that part of his Majesties household, which is called the Chamber, wherein is included as well the Bed-chamber, as the Privie-chamber, the Presence, and the great Chamber, and all other roomes, as Galleries, &c. thereto belonging, with the Councell-chamber, Privie Closet, &c. And in the Lord Chamberlaines absence hee keepeth his Table in the great Chamber, commanding and overseeing the attendance of all, to whom it appertaineth to bee ready, and waiting on his Majestie going to the Chappell, or to speake with Ambassadors, or else walking or riding forth.

Vicount, alias *Viscount* (*vicecomes*) commeth of the French (*vicompte. i. Procomes*) and signifieth with us as much as Sheriffe. Betweene which two words I finde no other difference, but that the one cometh from our Conquerours the Normans, and the other from our Auncestors the Saxons, wherefore see more of this in

Shyreve. Vicount also signifieth a degree of Nobilitie next unto an Earle, which (as *M. Camden, Britan. pag. 170.* saith) is an old name of office, but a new one of dignitie, never heard of amongst us, untill *Henry* the sixth his dayes. But this degree of honour is more ancient farre in other Countries. *Cassan in gloria mundi, parte 5. confid. 55.* whom you may reade.

Vicountie, is an Adjective made of *Vicountie*, and signifieth as much as belonging to the Vicount; as Writs *Vicountiel* are such Writs as are triable in the Countie, or Sheriffes Court. *Old. nat. br. fol. 109.* Of this kind you may see divers Writs of *Nusance* set downe by *Fitzherbert* in his *nat. br. fol. 184. b.* There be also certaine fermes called *Vicountiels*, which the Sheriffe for his time payeth a certaine rent for to the King, and maketh what profit he can of them. See the statutes, *anno 33. & 34. H. 8. ca. 16. & anno 2. & 3. Ed. 6. cap. 4.* and *anno 4. H. quint. capite secund.*

Vi laica removenda, is a writ that lyeth for the removing of forcible possession of a benefice kept by lay men. And this writ is graunted some time upon the Certificate of the Bishop into the Chauncery, that there is such a force in his Dioces: some

time upon a surmise made thereof by the Incumbent himselfe, without the certificate of the Bishop, and hath a severall forme for either case. *Fitzh. nat. br. fol. 54. Register, origin. fol. 59. & 60.*

Villanis Regis subtractis reducendis, is a writ that lyeth for the bringing backe of the Kings bondmen, that have beene carried away by others out of his manors, whereto they belonged. *Register, origin. folio 87. b.*

Villein (*villanus*) commeth of the French (*vilain. i. illiberalis, impurus, vilis, turpis*) and signifieth in our common Law, a bondman, or as much as *Servus* among the Civilians. Of these there be two sorts in *England*, as *Sir Thomas Smith* saith in his *Repub. Anglo. lib. 3. cap. 8* one termed a *Villein in grosse*, which is immediately bound to the persons of his Lord and his heires, the other a *villein regardant* to a manor, whom the Civilians terme (*Glebe ascriptitium*) being bound to their Lord, as members belonging and annexed to such a manour, whereof the Lord is owner. This division is affirmed by divers places of our common law Writers: as in the *Old. nat. br. fol. 8.* You have these words. Know yee that a woman shall be indowed with

with a villein in grosse, &c. and againe, fol. 39. If a man doe menace or threaten any villeines, which are regardant to a manor, &c. *Bracton* hath another division of villeines, which is all one with the Civilians. For in his first booke, cap. 6. nu. 4. he saith thus: *Servi autem nascuntur aut fiunt*: and then thus goeth forward: *Nascuntur ex nativo & nativa alienius copulatis vel solutis, sive sub potestate Domini constituti sint, sive extra potestatem. Item nascuntur servi qui ex nativa soluta generatur, quantumvis ex patre libero: quia sequitur conditionem matris quasi vulgo conceptus, &c.* And after divers things delivered of this sort, he saith againe thus: *Fiunt etiam servi liberi homines captivitate, de jure Gentium, &c. Fit etiam servus liber homo per confessionem in Curia Regis factam: ut cum liber homo sit in Curia Regis, & se cognoscat ad villanum. Item liber homo fit servus, si cum semel manumissus fuerit, ob ingratitudinem in servitutem revocetur. Item fit liber homo servus, cum ab initio clericus vel monachus factus fuerit, postea ad secularem vitam redierit. Quia talis restituti debet Domino suo. v. Tiracellum de Nobilitate. cap. 2. pag. 14. num. 54:* In very many Provinces of France there be certaine men called (*hermines manus mortue*, qui tanta juris similitudine adscriptitiis colonis

conjuncti, & prope iidem videntur. Non autem servi sunt omnino, sed in territorio domini sunt, tanquam alligati, non habentes demigrandi potestatem. Itaque servi corporis & prosecutionis vulgo dicuntur, quod si fugerint, potest eos prosequi dominus & capere. Tributum autem isti & nonnullas commoditates domino prestant: in quibus hac maxima, quod ipsis vita functis sine sobole, succedit dominus vel ex toto vel ex parte. Connarus, lib. 2. cap. 10. num. 3. whose words I thought not unfit for this place, because they expresse the nature of our villenage something aptly.

Villein fleeces, anno 31. Ed. 3. cap. 8. are fleeces of Wooll that are shorne from scabbed Sheepe.

Vidimus, anno 15. H. 6. ca. 3.

Villenage (*Villanagium*) cometh of (*villain*) and signifieth a servile kind of tenure belonging to lands or tenements; that is, a tenure of lands or tenements, by such a service, as villeines are fitted to performe. For every one that holdeth in villenage, is not a villein, or a bond man. *Villanagium vel servitium nihil detrabit libertatis, habita tamen distinctione, utrum tales sint villani, & tenuerint in villano soccagio de dominico Domini Regis. Bracton, lib. prim. cap. 6. num. prim. Britton in his 66. chapter speaketh to this effect:*

effect : Villenage is a tenure of the demesnes of a Lord delivered to a Tenant at the Lords will, by villenous services, to improve it to the Lords use, and delivered by the Rodde, and not by any Title of Writing, or Succession of Inheritance, &c. And a little after he hath words to this effect : In the Manors of our Auncient Demesnes, there be pure villeines both by bloud and tenure : the which may be cast out of their tenement, and deprived of their chatels, at the pleasure of the Lord. By which two places I gather, though villein tenure doe not alway make the Tenent a villein : yet that there is a two-fold tenure called villenage: one wherein both the person and the tenure is bound, and in all respects at the disposition of the Lord : and another, which in respect of the tenure, is after a sort servile, though the person be not bond. This is well proved by *Bracton*, lib. 2. ca. 8. num. 3. in these words : *Item tenementum non mutat statum liberi, non magis quam servi : Poterit enim liber homo tenere purum villenagium, faciendo quicquid ad villanum pertinebit, & nihilo minus liber erit, cum hoc faciat ratione villenagii, & non persone sue : & ideo poterit, quando voluerit, villenagium deserere, & liber discedere, nisi illaqueatur sit per uxorem nativam ad hoc faciendum, ad*

quam ingressus fuit in villenagium, & que prestare poterit impedimentum, &c. So that a man may hold in pure villenage, and yet bee a free man in respect of his person. But what is pure villenage ? *Bracton* answereth in the words there next following : *Purum villenagium est, a quo prestatat servitium incertum & indeterminatum, ubi sciri non poterit vesper, quale servitium fieri debet manere, viz : ubi quis facere tenetur quicquid ei preceptum fuerit.* The other sort of villenage which is not pure, is there called of *Bracton* (*villanum soccagium*) which differeth from the other in this, because it is onely tyed to the performance of certaine services agreed upon betweene the Lord and the Tenent. Whereof see *Bracton* also in the same place: by whom you may perceive, that a man may hold (*per villanum soccagium*) and yet have *liberum tenementum*) if he have it to himselfe and his heires. This villanous soccage is to carry the Lords dung into his Fields, to plow his Ground at certaine dayes, sow and reape his Corne, plash his Hedges, &c. See *Soc-cage*.

Villenous judgement (*Villanum iudicium*) is that which casteth the reproach of villeny and shame upon him against whom it is given, as a Conspiratour, &c.

Starrs.

Stawf. pl. cer. li. 3. c. 12. f. 175. This *M. Lamb.* in his *Eirenarcha*, li. 1. ca. 13. pag. 63. calleth villenous punishment, and saith that it may well be called infamous, because the judgement in such a case shall be like the ancient judgement in Attaint (as it is said *anno 4. H. 5. Fitzb. Judgement*, 220.) and is in *27. lib. Assis. pl. 59.*) set downe to be, that their oathes shall not be of any credit afterward, nor lawfull for them in person to approach the Kings Courts: and that their lands and goods be seised into the Kings hands, their trees rooted up, and their bodies imprisoned, &c. And at this day the punishment appointed for perjurie, (having somewhat more in it then corporall or pecuniary paine) stretching to the discrediting of the testimony of the offender from ever after, may be partaker of this name. Thus far *M. Lambert.*

Virgata terre, *Reg. orig. fo. 167. a.* See *Tardland.*

Viridario eligendo, is a writ that lyeth for the choise of a verdour in the Forest, *Register origin. fol. 177.*

Visitation of maners (*Visitatio morum*) was wont to be the name of the Regarders office in ancient time, *Manwood, parte pri.* of his Forest lawes, pag. 195. See *Regarder.*

Visue (*Vicinetum*) signifieth a

neighbour place, or a place neere at hand, *anno 16. R. 2. ca. 6.*

Visu Franciplegii, is a writ to exempt him from coming to the view of Frankpledge, that is not within the Hundred resident. For men are bound unto this view by reason of their habitation, and not of lands held where they dwell not, *Regist. orig. fol. 175.*

Viteller (*vičualarius*) cometh of the French (*vičuales. i. commeatus*) and signifieth with us, him that selleth victuals. For these there is a writ in *Fitzherbert, nat. brev. fol. 172.* if they exercise their trade; bearing a magistracie in any Towne Corporate.

Umple, *anno 3. Edwardi 4. cap. 5.*

Uncore prist, is a plee for the Defendant, being sued for a debt due at a day past, to save the forfeiture of his bond; saying, that he tendered the debt at the time and place; and that there was none to receive it, and that hee is now also readie to pay the same. 7. Ed. 6. 83. *Dyer.* See *Unquest prist.*

Uncuth, is a Saxon word, signifying as much as (*incognitus*) It is used in the ancient Saxon lawes, for him that cometh to an Inne guest wise, and lyeth there for two nights at the most. In which case

his Host was not bound to answer for any offence, that hee committed, whereof hee was guiltlesse himselfe. But if hee laid there the third night, then hee was called (*guest, hospes*) and then must the Host answer for him, as for one of his owne familie. And if hee tarried any longer, then was hee called *Agen bine*, that is to say, *familiaris*. Whom, if hee offend against the Kings peace, his Host was to see forth-comming: or if hee could not bring him out within a month and a day, hee must satisfie for his offence. *Lamberd, Archæiono. fol. 133. num. 7.* Of this *Bracton, lib. 3. cap. 10. num. 2.* writeth thus: *Item secundum antiquam consuetudinem dici poterit de familia alicujus, qui hospitus fuerit cum alio per tres noctes: quia primâ nocte poterit dici Vacutb, secundâ verò Gust, tertiâ nocte Hogbenhine, &c.* This law was made for the better preservation of the Kings peace, and to shew in what pledge every man was to bee accompted, that travelled by the way. See *Tuainnithes gest.*

Unde nihil habet, is a writ. See *Date unde nihil habet.*

Under-chamberlaine of the Exchequer, is an Officer there, that cleaveth the Tallies, written by the Clerke of the Tallies, and readeth the same, that the Clerke of

the Pel, and the Controulers thereof may see their entrie be true. Hee also maketh searches for all Records in the Treasurie. There bee two Officers there of this name.

Underscheatour. Subescheatour. anno 5. Ed. 3. cap. 4. See *Escheatour.*

Under-shyreeve (Subvicecomes) See *Shyreeve.*

Underfitter, is an Inmate. See *Inmate.*

Undertakers, be such as are employed by Purveyours of the King as their deputies *anno 2. & 3. Ph. & Ma. cap. 6.* and such as undertake any great worke, as drying of Fennes, &c. *anno 43. Elizab. cap. 11.*

Under-treasurer of England, (vicethesaurarius Anglia) *anno 39. Eliz. cap. 7. & anno 43. ejusdem. Subsidie of the Clergie.* This Officer (as some Exchequer men thinke) was first created in the time of King *Henry the seventh*, to cheste up the Kings Treasure at the end of every Tearme, and to note the content of money in each cheste, and to see it carried to the Kings Treasurie in the Tower, for the ease of the Lord Treasurer, as being a thing too meane for him to bee troubled with, and yet meet to be performed by a man of great secrecie and truit. Hee in the vacancie of the Lord Treasurers

urers office, doth all things in the receipt, that the Lord Treasurer doth. Hee nominateth the two Prayers of all goods seised as not customed, and ordereth, whether the partie shall have them at the price or not. Hee appointeth the Steward, Cooke, and Butler for the provision of the Starre-chamber. But this Officer in other mens judgement, is farre more ancient then *Henry* the seventh dayes, yet named Treasurer of the Exchequer in the Statutes, untill Queene *Elizabeths* time, where hee is termed Under-treasurer of *England*. Neverthelesse, anno 35. *Eliz.* he is alio written Treasurer of the Exchequer. Reade the Statutes, anno 8. *Ed. 3. statut. 2. cap. 17. & 27. ejusdem. Stat. 2. cap. 18. 1. Rich. 2. cap. 5. 4. H. 4. cap. 18. 8. H. 6. cap. 17. 27. H. 8. cap. 11.* with divers other places, that seeme to approve this to be true.

Union (unio) is a combining or consolidation of two Churches in one, which is done by the consent of the Bishop, the Patron, and the Incumbent. And this is properly called an *union*. Howbeit, that there bee two other sorts: as when one Church is made subject to the other, and when one man is made Prelate of both, and when a Conventuall is made Cathedrall, as you may

reade in the Glosse of the chapter. *Licet De locato & conducto*, in *Lyndwoods* Provincials. *Sett. Et quia, versu Appropriationis*. Touching *Union* in the first signification there was a statute, anno 37. *Hen. 8. cap. 21.* that it should be lawfull in two Churches, whereof the value of the one is not above fixe pounds in the Kings bookes of the first frutes, and not above one mile distant from the other. *Union* in this signification is personall, and that is, for the life of the Incumbent: or reall, that is, perpetuall, whosoever be Incumbent.

Unitie of possession, is called *consolidatio usus fructus, & proprietatis* in the Civill Law, signifying a joynt possession of two rights by severall titles. For example, I take a lease of land from one upon a certaine rent: afterward I buy the Fee-simple. This is an unities of possession, whereby the lease is extinguished: by reason that I, which had before the occupation onely for my rent, and become Lord of the same, and am to pay my rent to none, but my selfe. Also an Abbot being seated within a certaine Parish, afterward obtaineth an appropriation of the tithes belonging to that Church, for the use of his house. Here is an unities of possession, by reason that the tythes, which before were to be

paid to the Incumbent, are now to be paid to none but himselfe, by vertue of the appropriation.

Universitie (*Univerſitas*) is by the Civill Law any body politick, or corporation : but in our language it is (at the least most ordinarily) taken for those two bodies, that are the Nourſes of learning, and the liberall Sciences, *Cambridge* and *Oxford* : endowed with great favours, and privileges, for their better maintenance, as appeareth not onely by *anno 2. & 3. Ph. & Mar. ca. 15. a. 13. El. c. 21. & a. 18. ejus. ca. 6.* but much more by their severall Charters, graunted unto them by divers godly and magnanimous Kings of this land.

Unlawfull assembly, (*Illicita congregatio, illicita aſſemblata*) is the meeting of three or more persons together, with force to commit some unlawfull act, and abiding still, not endeavoring the execution thereof, as to assault or beate any person, to enter into his house or land, &c. *West. parte 2. symb. titulo, Inditements, ſect. 65. M. Lamberd in his Eirenarcha, cap. 19.* ſaith thus : An unlawfull assembly is the company of three persons or more, gathered together, to doe such an unlawfull act, although they doe it not indeed. So ſaith *Kitchin* in effect, *fol. 20.*

Unques priſt, is (word for

word) alwayes ready. And it ſignifieth a Plee, whereby a man profeſſeth himſelfe alway ready to doe or performe that, which the Demandant requireth, thereby to avoid charges. For example : a woman ſueth the tenent for her Dower : and hee comming in at the first day, offereth to averre, that hee was alway ready and ſtill is, to performe it. In this caſe except the Demandant will averre the contrary, hee ſhall recover no dammages. When this Plee will ſerve to avoyd charges, and when not, ſee *Kitchin, fol. 243.* See *Uncores priſt.*

Voydance (*vacatio*) is a want of an Incumbent upon a benefice : and this voydance is double : either in law, as when a man hath more benefices incompetentible : or indeed, as when the Incumbent is dead, or actually deprived, *Broke, titulo Quare impedit. n. 51.*

Voucher (*Advocatio*) is a calling in of one into the Court at the petition of a partie that hopeth to be helped thereby. New booke of Entries, verbo. *voucher. voucher de garantie, Brit. cap. 75.* In Latine (*Advocatio ad warrantizandum*) is a petition in Court made by the Defendant to have him called, of whom hee or his Anceſtor bought the land or tennement in queſtion, and received warrantie for the ſecure injoyning thereof againſt all men. *Brit.*

Britton of this writeth a long chapter, *ubi supra*, intituling it *Garant voucher*. But *Bracton* writeth a large tractate of it, *lib. 5. tractat. 4. per totum*, *Littleton* also handleth it not minfingly, in the last chapter of all his *Tenures*. Of this you may reade *Fitzb.* also in his *nat. br. fol. 134. De warrantia charte*. All this law seemeth to have beene brought into England out of Normandy. For in the Grand Customary you have likewise a chapter intituled (*vouchement de garant, cap. 50. id est, vocamentum Garanti*) where it is set downe, what time ought to be given, for the appearance of the warrant called in this case, how many warrants may be vouched, one calling in another, and divers other points touching this doctrine. All which, and many more, you may reade in *Bracton, ubi supra*. A common *voucher*, a double *voucher*. *Cooke, lib. 2. Sir Hugh Cholmleys case, fol. 50. b.* This is very answerable to the contract in the Civill law, whereby the Buyer bindeth the Seller, sometime in the simple value of the thing bought, sometime in the double, to warrant his secure enjoying of the thing bought. But this difference I find betweene the Civill Law and ours, that whereas the Civill Law bindeth every man to warrant the secu-

ritie of that which hee selleth, ours doth not so, except it be especially covenanted. The partie that voucheth in this case, is called the Tenent, the partie vouched is termed the *Voucher*. The writ whereby he is called, is termed *Summoneas ad warrantizandum*. And if the Sheriffe returne upon that writ, that the partie hath nothing, whereby hee may be summoned: then goeth out another writ, *viz. Sequatur sub suo periculo*. See *Termes of the law, verbo Voucher*. And *Lamb.* in his Explication of Saxon words, *verbo Advocare*. See *Warrantie*. I reade in the new booke of Entries, of a *foraine voucher*, which hath place properly in some Franchise, County Palatine, or other where one voucheth to warrantie one not dwelling within the Franchise, *fol. 615. columna. 1.* whereupon because the Foreyner need not be tryed in that Court, the record and cause is removed to the common plees, &c. See of this *Fitzb. nat. br. fol. 6. E.*

User de action, is the persuing, or bringing of an action, which in what place and countie it ought to be. See *Brooke, titulo Lien & Countie, fol. 64.*

Use (usus) is in the originall signification, plaine enough: but it hath a proper application in our common law, and that is

the profit or benefit of lands or tenements. And out of *M. Wests* first part of his *symbol. lib. pri. sect.* 48, 49, 50, 51, and 52. I gather shortly thus much for this purpose. Every deed in writing hath to be considered the substance, and the adjuncts. Touching the substance, a deede doth consist of two principall parts, namely, the premisses and the consequents. The premisses is the former parte thereof, and is commonly said to be all that, which precedeth the (*Habendum*) or limitation of the estate, which be the persons contracting, and the things contracted. The consequent is that which followeth the premisses, and that is the (*Habendum.*) In which are two limitations: the one of the estate, or propertie, that the partie passive shall receive by the deed, the other of the use, which is to expresse in the said (*Habendum*) to or for what use, and benefit hee shall have the same estate. And of the limitation of those uses, you may reade many presidents set downe by the same Author in his second booke of his said first part, *sect.* 308. and so forth to 327. These uses were invented upon the statute called *West. 3. or Quia emptores terrarum*, before the which Statute no uses were knowne. *Perkins. Devises*, 528. And be-

cause mens wits, had in time devised many deceits, by the settling of the possession in one man, and the use in another, there was a statute made, *anno 27. H. 8. cap. 1.* whereby it was enacted, that the use and possession of lands and possessions should alway stand united. New Expofitor of law termes, *verbo. Use v. Cooke lib. 1. Cbudleise case, fol. 121. & seqq.*

Usher (*Ostiarium*) commeth of the French (*Huissier. i. Accensus, apparitor, Janitor.*) It signifieth with us first an officer in the Exchequer: of which sort there be foure ordinary ushers that attend the chiefe officers and Barons of the Court at *Westminster*, and Juries, Sheriffes, and all other accountants at the pleasure of the Court. There be also Ushers in the Kings house, as of the privie Chamber, &c.

Utas (*Oblava*) is the eight day following any terme or feast: as the *utas* of *Saint Michael*, the *utas* of *Saint Hilary*, the *utas* of *Saint Martine*, of *Saint John Baptist*, of the *Trinitie*, &c. as you may reade, *anno 51. H. 3. stat.* concerning generall dayes in the Bench. And any day betweene the feast and the eighth day, is said to be within the *utas*. The use of this is in the returne of Writs, as appeareth by the same statute.

Utsangthes, is an ancient Royaltie granted to a Lord of a Manor, by the King which giveth him the punishment of a thiefe dwelling out of his libertie, and having committed theft without the same, if hee be taken within his fee. *Bracton, lib. 2. cap. 24.* who in his third booke, *tractat. 2. cap. 35.* seemeth rather to interpret the word, then to expresse the effect, and saith thus: *Utsangthes dicitur extraneus latro, veniens aliunde de terra aliena, & qui captus fuit in terra ipsius, qui tales habet libertates.* It seemeth to bee compounded of these three words; *Ut, fang, thes*: which in our moderne English be, out, take or taken, Thiefe. Of this *Fleta* hath these words: *Utsangenthes dicitur latro extraneus veniens aliunde de terra aliena, & qui captus fuerit in terra ipsius qui tales habet libertates. Sed non sequitur quod possit ille hominem suum proprium extra libertatem suam captum reducere usq; in libertatem, & ibi eum judicare: reducere tamen poterit judicatum, & judicium in proprio patibulo exequi ratione libertatis: commodum tamen non video. Debet enim quilibet juri subiacere, ubi deliquit: proprios tamen latrones & alienos judicare possunt, dum tamen infra libertatem fuerint capti, &c.*

Utlaghe, significat bannitum ex-

tra legem, Fleta, lib. 1. cap. 47. See *Utlawrie*.

Utlagatio capiēdo quando utlagatur in uno comitatu, & postea fugit in alium, is a writ, the nature whereof is sufficiently expressed in the words set downe for the name thereof. See the Regilter originall, fol. 133.

Utlawrie, (*utlagaria*, aliās *utlagatio*) is a punishment for such as being called into law, and lawfully sought, doe contemptuously refuse to appeare. And as *Bracton* saith, *lib. 3. tract. 2. cap. 11.* Hee that is sued must bee sought, and called at five Counties, a moneth being betweene every Countie, to answer to the law. And if he come not within that time, *pro exlege tenebitur cum principi non obediat, nec legi: & ex tunc utlagabitur*: that is, (as the Author of the *Termes of Law* saith) he shall be pronounced by the Coroner, to be out of the Kings protection, and deprived of the benefit of the law. The effect of this is divers, (as the same Author saith) for if he be out-lawed in an action personall, (he meaneth) at the suite of another in a civill cause: he shall forfeit all his goods and cartels, to the King: if upon felonie, then hee shall forfeit all his Lands and Tenements, that hee hath in fee-simple, or for terme of his life, and his goods
an

and cattles, *Bracton*, ubi *supra*, num. 5. saith, that such as be outlawed upon Felonie, *Ex tunc gerunt caput lupinum, ita quod sine judiciali inquisitione rite pereant, & secum suum iudicium portant, & merito sine lege pereunt, qui secundum legem vivere recusarunt. Et hec ita, si cum capiendi fuerint, fugiant, vel se defendant, si autem vivi capti fuerint, vel se reddiderint, vita illorum & mors erit in manu Domini Regis.* See *Hornes mirror of Justices*, lib. 3. cap. des fautes punissables. *Bracton* saith in the place above specified (with whom also *Fleta* agreeth, lib. 1. cap. 27.) that a Minor or a woman cannot be out-lawed. But take his owne words: *Minor vero, & qui infra etatem, 12. annorum fuerit, utlagari non potest, nec extra legem poni, quia ante talem etatem non est sub lege aliqua, nec in Decenna, non magis quam femina, que utlagari non potest, quia ipsa non est sub lege. i. Inlaugh Anglice, sc: in franco plegio, sive decenna: sicut masculus, 12. annorum, & ulterius. Et ideo non potest utlagari. Waivari tamen bene potest, & pro derelicta haberi, cum pro feloniam aliqua fugam fecerit sine ceperit. Est enim waivium, quod nullus advocat, nec princeps eum advocabit, nec tuebitur, cum fuerit rite Waiviata: sicut fit de masculo, qui secundum legem terre rite fuerit utlagatus, &c.* To the same

effect writeth *Fitzberbert* in his *natura brev.* fol. 161. viz. And because women be not sworne in Leetes to the King, as men be of the age of twelve yeares or upward: it is said, when a woman is out-lawed, that shee is waived, but not out-lawed, for shee was never under the law, nor sworne unto it. More of this you may reade in *Bracton*, lib. 3. tractat. 3. cap. 12. & 13. and then in the 14. how an out-law is in-lawed againe, and restored to the Kings peace and protection. See also *Fleta*, lib. 1. cap. 28. per totum.

Utrum. See *Affise*.

Utter Baristers, be such, as for their long study, and great industry bestowed upon the knowledge of the common law, be called out of their contemplation to practise, and in the face of the world, to take upon them the protection and defence of Clients. These are in other Countries called (*Licentiati in iure.*) Howbeit, in modestie they still continue themselves hearers for divers yeares, like the Schollers of *Pythagoras*, that for the first five yeares never adventured to reason or discourse openly upon any point of their masters Doctrine, which their silence (à cohibendo sermone) was termed *ἡμερῶν*, as *Suidas* and *Zeusdorus* doe report.

Vilepe,

Utile significat escapium lustrum, Flac. lib. 1. c. 47.

W

WAge (*vadiare*) proceedeth of the French (*Gag.* i. *don pignus*, *pignore cartare*) and signifieth in our common law, the giving of securitie for the performing of any thing: as to wage law, and to wage deliverance; which see before in *Gag.* None waget law against the King, *Brooke*, *titulo Chose in action*, *num. 9.* The substantive of this verbe is (*Wager*) in the Latine (*vadium*) which some Feudists call (*radium*) as testifieth *Hotomus* in his *Commentaries de verbis feudilibus*, verbo *Wadium*. See *Law*.

Wainages (*uonagium*, alias *uonagium*) signifieth as much as *peculatus ferocum*, of the Saxon word *uon*, i. *habitare*, & *uocning*, i. *habitatio*. See *Gamage*.

Waive (*waitiare*) (*Regist. orig. fol. 277. a.*) is to forsake (*habere pro derelicto*) as the Civilians terme it. *Waiuare feudum suum*. *Bracton*, *lib. 2. cap. 7.* that is, to forsake. Many of the Kings liege people to bee out-lawed, and many waived by erroneous procees, *anno 7. H. 4. ca. 13.* See *Yltonius*. To waive the company of thieves, *Stamf. pl. cor. fol. 26.* To waive his benefice, *Idem*, *fol.*

46. To waive the advantage, *Idem* *prærog. fol. 17.* Persons attainted or waived, *West. part. 2. symbol. tit. Fines. Sect. 13. D.* This word waived *waitians* properly belongeth to a woman, that being fined in law, contemptuously refuseth to appeare, as outlawed doth to a man, *Regist. orig. fol. 132. b. & 277. a.* The reason whereof see in *Fitz. nat. br. fol. 161. A.* See *Waif*.

Wales (*Wallis*) is a part of England, on the west side inhabited by the off-spring of the ancient *Britons* chased thither by the *Saxons*, being called hither by them, to assist there against the might of the *Picts*. The reason of the appellacion cometh from the Saxon (*wealh*, i. *externus*, *colpigerinus*) for so the Saxons both called them, and held them; though now, to the great quiet of this Kingdome they be incorporated unto us. See *M. Lamberts* explication of Saxon words, verbo, *Wallar*.

Walkers, seeme to be those that are otherwise called *Foresters*. *Crompton* in his *Juridictions*, *fol. 154.* hath these words in effect: There bee Forresters assigned by the King, which bee walkers within a certaine space assigned them to looke unto.

Waiuaria mulieris, is as much as *uoluntatio uiri*. *Regist. orig. fol. 132. b.* See *Waive*.

Wapentake (Wapentakium) is all one with that, which wee call a Hundred, as appeareth by *Bracton lib. 3. tract. 2. ca. pri. ut. pri. in fine. Convocentur* (saith he) *postmodum servientes & Balivi Hundredorum, et per ordinem irrotulentur Hundredarii, sive wapentakia, et nomina servientium, quorum quilibet affidabit quod de quolibet Hundredo eliget quatuor milites, qui statim veniant coram Justiciariis ad faciendum preceptum Domini Regis, & qui statim jurabunt, quod eligent duodecim milites, vel liberos & legales homines, si milites non inveniuntur, &c.* *M. Lamberd* in his explication of Saxon words, verbo *Centuri*, is of the same mind: and farther saith, that this word is especially used at this day in the countries be North the river *Trent*. And in the lawes of *King Edward*, set forth by him, num. 33. it is most plaine in these words: *Et quod Angli vocant Handredum, supradicti comitatus vocant wapentakium.* But there he nameth some Shires of this side *Trent*: as *Warwick-shire, Leicester shire, and Northampton shire*. In the words there following, there is a reason given of this appellation in these words: *Et non sine causa: Cum quis enim accipiebat prefecturam wapentakii, die statuto in loco, ubi consueverant congregari, omnes majores contra eum conveniebant, & descendente de equo*

suo, omnes assurgebant ei. Ipse vero, erecta lancea sua, ab omnibus secundum morum fœdus accipiebat. Omnes enim quotquot venissent, cum lanceis suis ipsius hastam tangebant, & ita confirmabant per contractum armorum, pace palam concessa. Anglicè enim arma vocantur (wapun) & tacere confirmare: quasi armorum confirmatio. Vel ut magis expresse secundum linguam anglicanam dicamus, wapentak armorum tactus est (wapun) enim arma sonant (tac) tactus est. Quamobrem poterit cognosci, quod hac de causa, totus ille conventus dicitur (wapentak) eo quod per tactum armorum suorum ad invicem confederati sunt. Thus farre the book goeth word for word. With whom *Fleta* agreeth, saving that *Fleta* saith, that this word is used in all countiees be North *Watlingstreet*, li. 2. ca. 61. §. *universimode* Take *Sir Thomas Smithes* opinion also: whose words, in his second booke de *Rep. Anglo.* ca. 16. bee these: *Wapentak*, I suppose, came of the *Danes*, or peradventure of the *Saxons*. For that so many Townes came by their order then into one place, where was taken a muster of their armour and weapons: in which place, from them that could not find sufficient pledges for their good abearing, their weapons were taken away. The statute, anno 3. *Henrici 5. cap. 2. & anno 9. H. 6.*

cap. 10. & anno 15. Hen. 6. cap. 7. T. maketh mention of *Stainfife Wapentake*, and *Frendles Wapentake*, in *Craven* in the County of *Yorke*. See *Roger Hoveden*, parte poster: *suorum annalium* fol. 346. b.

Wards and Liveries (*wards & liberature*) is a Court first erected in King *Henry* the eighth his time, and afterward augmented by him with the office of *Liveries*, and therefore called by him (as now it is) the Court of *wards and Liveries*. The chiefe of this Court is called the master of the Court, &c. To whom are joyned the *Surveieur*, *Attorney*, and *Receiver* of the said Court, as his Assistants: then as Ministers the *Register*, two inferiour Attorneys or *Clarckes*, and a *Messenger*.

Ward (*Custodia*) is the German word, as (*Garde*) is the French. Both these bee used among our common Lawyers: the one by those that write in French, the other by those that write in English. Wherefore for your farther understanding, see *Gard* and *Gardein*. Yet is *Gard* sometime used in the English bookes also: as yeomen of the *Gard*. And also the keeper of one in his minority, is not called a *warden* but a *Gardein* or *Gardian*. *Ward* hath divers applications, as a *Ward* in *London*, latined (*wardi*) which is a portion of the Citie committed to the speciall

charge of some one of the foure and twenty Aldermen of the Citie, in such sort as every one knoweth his certaine ward assigned unto him, and hath dwelling within the same compasse some one grave Citizen for the good government thereof: who is in that respect a Deputy to the said Alderman and commonly called the Aldermans Deputy. Of these there bee five and twenty within the Citie, and one without, beside other liberties and the suburbs. *Stowes Survey of London*. Also a Forreist is divided into *wards*: *Manwood*, parte prim. Of his Forest lawes, pag. 97. Lastly, a prison is otherwise called a *Ward*. And the heire of the Kings tenent, holding by Knights service, or *in capite*, or of any common person by Knights service, is called *Ward*, during his nonage, See anno 32. Hen. 8. cap. 46.

Warden (*Gardianns*) signifieth all one thing with the French (*Gardein*) And therefore of this see more in *Gardien*. But it is the more usuall word of all that write in English, for him that hath the keeping or charge of any person or thing by office: as *VVardens* of Fellowships in *London*, anno 14. Hen. 8. cap. 2. *Warden courts*, anno 31. H. 6. cap. 3. *Warden of the Marches*, an. 4. Hen. 7. cap. 8. *Wardens and Com-*

municipalitie of the lands contributive unto Rochester bridge, anno 18. *Eliza. cap. 7.* Wardens of peace, anno 2. *Ed. 3. cap. 3.* Statute Northampton. Warden of the West Marches. *Cambd. Brit. pag. 606.* Warden of the Forest. *Manwood, parte pri. pag. 111. & 112.* Warden of the Aulnage, anno 18. *Hen. 6. cap. 16.* Chiefe Warden of the Forest. *Manwood parte pri. pag. 42 & 43.* VVarden of the Kings wardrope, anno 51. *H. 3. statut. quinto.* VVardens of the tables of the Kings Exchange, anno 9. *Edw. 3. statut. 2. cap. 7. & anno 9. Hen. 5. stat. 2. cap. 4.* VVardens of the rolles of the Chauncery, anno 1. *Edw. 4. ca. 1. & cap. 5.* VVarden or Clarke of the Hamper of the Chauncery. *Ibid.* VVarden of the Kings writs, and Records of his common bench, *ibid.* VVarden of the Kings armour in the tower, *an. 1. Ed. 4. cap. 1.*

Wardmote, is a Court kept in every ward in London, anno. 32. *Hen. 8. cap. 17.* ordinarily called among them, the *Wardmote Court.*

Ward peny, is money to bee contributed toward watch and ward.

Warantie (*warantia*) commeth of the French (*garantie*) or (*garant*) i. *vindex litis*:) which is a word of great antiquity with the French men, being brought

first thither by the *Francogalli.* And hence doe they make a Latinish verbe, viz. (*guarentare*) vel, ut est in aliis libris, *guarentisfare. i. causam alterius suscipere, se defensorem profiteri.* The Feudists also use this word (*guarentus*) quo significatur is, qui *Li-inis auctor dicitur, & evictionem prestat. lib. 2. Feud. titulo 34. §. 2.* The Civilians have a stipulation (*habere licere*) whereby is signified a power of perpetuall and quiet possession to bee given, *lib. 11. §. final. π de action. empt. & vend.* But this reacheth not so farre as our warrantie. For the Seller hereby is bound but to a kind of diligence and care to maintaine the Buyer in his possession. For if hee bee evicted, the Buyer is not tyed to recompence. *Doctores in l. stipulatio ista Habere licere, π de verb. obliga.* VVarantie signifieth in our common law, a promise made in a deed by one man unto another, for himselfe and his heires to secure him and his heires against all men, for the enjoying of any thing agreed of between them. And hee that maketh this warrantie, is called *Warrantus* by Bracton, *lib. 2. cap. 19. & 37.* The Romanes called him *Auctorem*, as *Hotom. an* testifieth in his Commentarie upon *Tullies oration pro Aulo Caccinna, verbo, Csesennius auctor fundi*, whom you may

may reade more at large. And that which wee terme *vocationem warranti*, the Civilians call *authoris laudationem vel nominationem*. Eimer *pract. cap. 48*. This warranty passeth from the seller to the buyer, from the feoffer to the feoffee, from him that releaseth, to him that is released of an action reall, and such like. And for the forme it passeth in a clause toward the end of a deed in these words: *Et ego verò præfatus I, & heredes mei prædictas decem acras terre cum pertinentiis suis præfato H. heredibus, & assignatis suis contra omnes gentes warrantizabimus in perpetuum per presentes*. *West. parte prim. symbol. lib. 2. titulo Feofments, sect. 281. & 288*. So a release may be with a clause of warrantie. *Idem, eodem, titulo Releases, sect. 510*.

There is also a warrant of Attourney, whereby a man appointeth another to doe something in his name, and warranteth his action, *West. eod. sect. 481*. And these VVarrants of Attourney seeme to differ from letters of Attourney, because that, whereas letters passe ordinarily under the hand and seale of him, that maketh an Attourney by them, before any credible witnesses: warrants of Attourney bee acknowledged before such persons, by such meanes and in such manner, as *Fines West. parte 2. symbol. titulu Recoveries,*

sect. prim. F. See Attourney.

But these warranties in passing land from one to another, bee of greatest consequent, and of more intricate understanding. And therefore of these, divers have written at large: as *Glanville, lib. 3. per totum. Bracton, lib. 5. tract. 4. per totum. Britton, cap. 105. Littleton* in the last chapter of his tenures: the forme and effect whereof *Bracton* in his second booke, *cap. 16. num. 10. declareth thus: Et ego & heredes mei warrantizabimus tali & heredibus suis tantum, vel tali & heredibus & assignatis, & heredibus assignatorum, vel assignatis assignatorum, & eorum heredibus, et acquietabimus, et defendemus eis: tam terram illam cum pertinentiis (secundum quod prædictum est) contra omnes gentes in perpetuum, per prædictum servitium. Per hoc autem quod dicit (Ego et heredes mei) obligat se et heredes suos ad warrantiam, proquinquos et remotos, presentes et futuros ei succedentes in infinitum. Per hoc autem quod dicit (warrantizabimus) suscipit in se obligationem ad defendendum suum Tenementum in possessione res data, & assignatos suos et eorum heredes, & omnes alios, secundum quod supradictum est, si fortè tenementum datum petatur ab antiquo in Dominico. Per hoc autem quod dicit (acquietabimus) obligat se & heredes suos ad*

acquiescendum, si quis plus petierit servitij, vel aliud servitium, quam in charta donationis continetur: per hoc autem quod dicit (Defendemus) obligat se & heredes suos ad Defendum, si quis velit servitutem ponere rei sue contra formam sue donationis, &c. But the new Expounder of law termes saith, that this warrantie beginneth two wayes: one by deed of law: as if one and his ancestors, have held land of another and his ancestors, time out of mind by homage (which is called *Homage auncestrell*) for in this case, the homage continually performed by the tenant is sufficient to bind the Lord to warrant his estate. The other is by deed of the party, which by deed or fine tyeth himselfe to warrant the land or tenement to the tenant. And *Sir Ed. Cooke* in the fourth booke of his reports, mentioneth the same distinction. *Nokes case, fol. 81. a.* calling the one a warrantie in law, the other an expresse warrantie. Civilians would call these species, *tacitam & expressam.*

Warranty (As the said Author of the termes of law saith, is in two manners: warranty lineall, and warranty collaterall. But (*Littleton saith ubi supra*) it is threefold: warrantie lineall, warranty collaterall, and warranty that beginneth by disseisin. Warranty by disseisin what it is, is

partly declared in *Sir Ed. Cookes reports, li. 3. Fermors case, fol. 78. a.* Whether of them divideth more aptly, let the learned judge. For my part, I thinke that lineall and collaterall bee no essentiall differences of warrantie, as it is originally considered in the first warranter. For he bindeth himselfe and his heires in generall. And such bee bound, bee they lineall or collaterall unto him. Therefore this division riseth rather from the event of the originall warranty: *videlicet*, because it so falleth out, that the tenant, to whom the warranty was made, or his heires, when hee or they be called into question for the land warranted formerly by the first feoffour, is driven by the meanes of the first warranters death, to call or vouch him to warranty that is his heire, and now presently living, bee hee descending or collaterall, as it falleth out. For example. *A. in feoffeth B. in twenty acres land, with clause of warranty against all men.* So long as *A.* himselfe liveth hee is liable to this covenant, and none else: after his decease his heire is subiect unto it, be hee his sonne, brother, uncle, or what else. And whether of these, or neither of these it will be, none knoweth untill hee be dead. Wherefore I conclude that this distinction of lineall or collate-

collaterall hath no use originally in this contract. For (as the Author of the termes of Law saith) the burthen of this warrantie, after the death of the first warrantor, falleth upon him, upon whom the land should have descended, if the warrantie had not beene made. And that is the next of blood to the warrantor, be hee in the descending or collaterall line. And therefore I resolve that this distinction groweth from an event, after the death of him that covenanteth to warrant. But to make this plaine, I finde warrantie to be used equivocally: signifying one sort, the contract; or covenant of warrantie first made, as appeareth by Bracton in the place formerly noted: and in another sort the very effect and performance of this contract, either by the Warrantor or his heires, when hee or they be by the tenant thereunto vouched, or called. As also I shew out of Bracton, lib. 5. tract. 4. cap. pri. nu. 2. in these words: *Imprimis videndum est quid sit warrantizatio. Et sciendum quod warrantizare, nihil aliud est, quam defendere & acquiescere tenentem, qui warrantum vocabit in seipsa sua, &c.* With whom agreeth Fleta, saying that warrantizare nihil aliud est, quam possidentem defendere, lib. 5. cap. 15. §. 1. & lib. 6. ca. 23. quod lege per totum. And the former division

of I neall and collaterall warranty, rather belonging to warranty in the second signification then the former.

And that this way, it is imperfect, or at the least obscure, I thinke it not hard to declare. First to shew this, I note out of Bracton, who may be called to warrantie. And he lib. 5. tract. 4. cap. pri. nu. 5. saith thus: *Videndum est qui vocari possit ad warrantum, & sciendum, quod tam masculus quam femina, tam minor quam major (dum tamen si minor vocetur, remaneat placitum de warrantia in suspensio usque ad etatem, nisi causa fuerit ita favorabilis, quod etas expectari non debeat, sicut ex causa Dotis) Item non solum vocandus est ad warrantum ille qui dedit, vel vendidit: verum etiam vocandi sunt eorum heredes descendentes in infinitum propter verba in Chartis contenta, Ego & heredes mei warrantizabimus tali & heredibus suis, &c.) Et in quo casu tenentur heredes warrantizare, siue sint propinqui, siue remoti, remotiores, vel remotissimi. Et quod de heredibus dicitur, idem dici potoret de assignatis, & de illis, qui sunt loca illorum heredum, sicut sunt capitales Domini qui tenentibus suis quasi succedunt, vel propter aliquem defectum, vel propter aliquod delictum, sicut de esbaetis Dominorum:* By which words wee perceive that

that the burthen of this warrantie is not tyed to heires onely, bee they in the descending, or collaterall line, but that under this word (*Heredes*) are comprised all such, as the first warranters lands afterwards come unto, either by descent, or otherwise *ex causa lucrativa*. So that if a man have twenty children, yet if hee will, and may give his land to a stranger, leaving his children no land: that stranger in this case is his assigne, and is contained under this word, heire. So if hee commit felonie after such warrantie covenanted, and forfeited his lands to his Lord by escheate: the Lord is *quasi haeres* in this case, and liable to the warrantie formerly passed. And in these two latter cases: warrantie in the second signification seemeth to be neither lineall, nor collaterall: at the least, as *Littleton*, and the other Authour have defined, or by examples expressed them.

But yet let us define these two species as they be; wherefore lineall warrantie is that, which hee is called unto by the Tenent, upon whom the land warranted had descended, if the warrantee had not bene covenanted. For example: *A.* selleth to *B.* twenty acres land with clause of warrantie, and afterward dieth, leaving issue. *C.* soone after *B.* is im-

pleaded for this land by *D.* and voucheth *C.* This is called a lineall warranty: because but for it the land had descended from *A.* to *C.*

Warranty collaterall, is that whereunto hee is called by the Tenent, upon the covenant of him, from whom the land could not descend, to the party called. For example: *B.* the Sonne purchase Tenements in Fee, whereof *A.* his Father disseiseth him, and selleth them to *C.* with a clause of warrantie. *A.* being dead, *C.* is impleaded for the Tenements, and calleth *B.* to warrantie. This warrantie whereunto *B.* is called, is collaterall: because the Tenements, if the warrantie had not bene covenanted by *A.* could not have descended from him to his Father *A.* for they were his owne by purchase. Many other examples there bee of this in *Littleton*. And this very case hee maketh his example of warrantie by disseisin, as also of warrantie collaterall, which plainly argueth, that warranty by disseisin, and warrantie collaterall, are not distinct members of warrantee, but may be confounded: though one warrantie may carry both names in divers respects. For there is some warrantie collaterall that beginneth not by disseisin. For exam-

example : *A.* Tenent in taile, alienateth to *B.* in fee, and dyeth leaving issue. *C.* afterward. *D.* Brother to *A.* and Uncle to *C.* releaseth to *B.* with warrantie, and dying, leaveth *C.* his heire being next of blood unto him. This warrantie is collaterall, because it descendeth upon *C.* from his Uncle *D.* and yet it beginneth not by disseisin of his said Uncle.

Warrantie, hath a double effect : one to debarre him upon whom it descendeth from the first warrantor as his next of blood, from claiming the land warranted : and another to make it good to the tenant, if by him hee bee vouched thereunto, or else to give him as much other land by exchange. But as the former of these effects taketh place with all heires, except those to whom the land warranted was intailed, and that reape no equivalent benefit by the first warrantor, anno 6. *Ed. prim. cap. 3.* so the latter prejudiceth none that receiveth not sufficient land from the first warrantor to make it good, *Bracton, lib. 5. tractat. 4. cap. 8. num. prim. & cap. 13. num. 2.* In the Customary of Normandie, ca. 5. you have *vouchment de garant*, which the Interpreter translateth, *Vocamentum Garanti*, a Voucher or calling of the warrantor into the

Court to make good his sale or gift.

Warrantia diei, is a writ lying in case, where a man having a day assigned personally to appeare in Court to any action wherein he is sued, is in the meane time by commandement employed in the Kings service, so that hee cannot come at the day assigned. This Writ is directed to the Justices to this end, that they neither take nor record him in default for that day. *Register originall, fol. 18.* Of this you may reade more in *Fitzherb. nat. brev. fol. 17.* and see *Glanville, lib. prim. cap. 8.*

Warrantia charta, is a Writ that lieth properly for him who is infeoffed in land or tenements with clause of warrantie, and is impleaded in an Assise or Writ of Entrie, wherein hee cannot vouch or call to warrantie : for in this case his remedy is, to take out this Writ against the feoffour or his heire, *Regist. origin. fol. 157. Fitzb. nat. brev. fol. 134.* Of this you may likewise reade *Fleta, lib. 6. cap. 35.* and *West. parte 2. symb. titulo Fines. Sect. 156.*

Warrantia custodia, is a Writ Judicall, that lyeth for him that is challenged to bee ward unto another, in respect of land said to bee holden in Knights service, which when it was bought

by the ancestors of the Ward, was warranted to be free from such thralldome. And it lieth against the warrantor and his heires, *Regist. Judic. fol. 36.*

Warrant of Attorney. See *Letter of Attorney*, and *Warranty*.

Warrens significat quietantiam misericordie in ijs qui non inveniunt quis hominem ad wardum faciendum in castra, vel alibi, Fleta, lib. 1. cap. 47.

Warren (*warrena*, alias *warrena*) cometh of the French (*Garr. aux. i. vicarium*, vel *locus in quo vel atus, vel pascua, vel fena continentur, quæ ad usum domus exat pertinent*) Calapine out of *Aulus Gellius, lib. 2. Noct. Attic. ca. 20.* A warren (as we use it) is a prescription or grant from the King to a man, of having Fesants, Partridges, Connies, and Hares, within certaine of his Lands, *Comptons Jurid. fol. 148.* where hee saith, that none can have warren, but onely the King, no more than Forrest or Chase. Because it is a speciall priviledge belonging to the King alone. And a little after hee hath words to this effect: The King may grant warren to mee in mine owne lands, for Fesants and Partridges only. And by this grant no man may there chase them without my licence. And so of Hares, but not of Connies. For their property is to destroy the fruites

of the earth, as to cate Corne, and pill the barke of Apple trees. Master *Manswood* in his first part of Forrest lawes, saith thus of it: A warren is a franchise, or priviledged place of pleasure, onely for those beasts and foules that are beasts and foules of warren, *tantum campestris, & non sylvestres, viz.* For such beasts and foules as are altogether belonging to the fields, and not unto the woods: and for none other beasts or foules. There are but two beasts of warren, that is to say, Hares and Connies: And there are also but two foules of warren, *viz.* Fesants and Partridges. And none other wild beasts or birds have any firme peace, priviledge, or protection, within the warren. If any person be found to be an offender in any such free warren, hee is to be punished for the same by the course of the common Law, and by the Statute, *anno 21. Edw. 3.* called the Statute *de malefactoribus in parvis & chaccis, &c.* For the most part there are no Officers in a warren, but the Master of the Game, or the Keeper. A free warren is some time inclosed, and also the same some time doth lye open, for there is no necessity of inclosing the same, as there is of a Park, for if a Parke be suffered to lie open, it ought to bee seiled into the Kings

Kings hands. Thus farre *M. Manwood*.

Waste, is the contribution, that was wont to be made towards Armour in the Saxons time. In *Canutus* his Charter of the Forrest set out by *M. Manwood* in the first part of his Forrest Lawes, *mun. 9.* you have these words: *Sint omnes tam primarii quam mediocres, & minuti, immunes, liberi & quieti ab omnibus provincialibus summonitionibus, & popularibus placitis, que Hundred lagbe Angli dicunt, & ab omnibus armorum exaribus, quod Waste Angli dicunt, & forinsecu querelis.*

Warrit, alias *Wardwit*, is to be quit of giving monie for keeping of warches. New exposition of Law termes.

Waste (*vastum*) commeth of the French (*gaster. i. populari*. It signifieth diversly in our common Law, first a spoile made, either in houses, woods, gardens, orchards, &c. by the tenant for terme of life, or for terme of anothers life, or of yeeres, to the prejudice of the Heire, or of him in the *Reversus* or *Remainder*. *Kitchin, fol. 168. &c. usque 172.* upon this committed the Writ of waste is brought for the recoverie of the things, whereupon the waste is made. See *Vasto*. Waste may bee also made of tenents or bond-

men belonging or regardant to the manour. *Regist. orig. fol. 72. a. & 73. a.* See the new booke of Entries, verbo *Waste*. A waste of the Forrest (as *M. Minwood* saith, *parte prim.* of his Forrest lawes, *pag. 172.*) is most properly where any man doth cut downe his owne woods within the Forrest, without license of the King, or of the Lord chiefe Justice in Eyre of the Forrest. But it is also, where a man doth plow up his owne meadow or pasture, and converteth it unto tillage. And of this you may reade him at large, in his second part, *cap. 8. num. 4. & 5.* Waste in the second signification is taken for those parts of the Lords Demesnes, that bee not in any one mans occupation, but lye common for bounds or passages of the Lord and tenant from one place to another, and sometimes for all the Kings Subjects. Which seemeth to bee called waste, because the Lord cannot make such profit of it, as hee doth of other of his land, by reason of that use which others have of it in passing to and fro. Upon this none may build or feed, or cut downe Trees, without the Lords license. Waste hath a third signification, as yeere, day, and waste. *Annet, dies, & vastum*: which is a punishment or forfeiture be-

longing to petit treason, or felonie: whereof you may reade *Stamf. pl. cor. lib. 3. cap. 30.* And see *Yeare, Day, and Waste.*

Wasters, anno 5. Ed. 3. cap. 14. See *Roberts men.* See *Draw lathees.*

Wastell breade, anno 31. H. 3. statute of bread, and statute of pilorie.

Water bayliffes, seeme to be officers in port Townes for the searching of Ships, anno 28. H. 6. cap. 5.

Wasling street, is one of the foure wayes, which the Romanes are said to have made here in *England*, and called them *Consulares, Pratorias, Militares, Publicas.* *M. Camden* in his *Britannia*, perswadeth himselfe that there were more of this sort than foure. This street is otherwise called *Wenlam street* (as the same Author saith; and howsoever the Romanes might make it and the rest, the names bee from the Saxons.) And *Roger Hoveden* saith, it is so called, because the sonnes of *Wetble* made it, leading from the East sea to the West, *Annal. part. prim. fol. 248.* This street leadeth from *Dover* to *London*, and so to *Saint Albons*, and there onward directly toward the North-west through the land, as from *Dunstable* to *Westchester*, anno 39. El. cap. 2. the second street is called *Ike-*

nild street, beginning at *Teonis*, who were the people inhabiting *Northfolke, Suffolke*, and *Cambridge shire*, as *M. Camden* declareth, pag. 345. The third is called *Fosse*: the reason of the name hee giveth, because he thinketh it was ditched of each side. The fourth is called *Ermin street*, *Germanico vocabulo, à Mercurio, quem sub nomine Irmansull. i. Mercurii columna, Germani majores nostri coluerunt.* Of these reade more in the said Author, pag. 43. & 44. In the description of *England* going under *Saxons* name, cap. 7. I reade that *Belinus* a Briton King made these foure wayes: whereof the first and greatest hee calleth *Fosse*, stretching out of the South into the North, and beginning from the corner of *Cornwell*, and passing forth by *Devonshire, Somersetshire*, and so along by *Telbury* upon *Totesmould* besides *Coven-tree* unto *Leicester*, and thence, by the wide plaines to *Newwarke*, and to *Lincolne*, where it endeth. The second hee nameth *Wasling street*, comming out of the South-east toward the *Fosse*, beginning at *Dover*, and passing through the middle of *Kent* over *Thames*, beside *London* neere *Westminster*, and thence to *Saint Albons*, by *Donstable, Stratford, Towcester, Wedon, Lilborn, Atheriston, Gilberts bill*, now called *Wreaken*, by *Severne*

Seberne, Workecester, Stratton, and so forth by the middle of *Wales*, unto *Cardigan*, and the Irish seas. The third hee calleth *Erminage-street*, stretching out of the West North-west into the East South-east, from *S. Davids* in the West *Wales* unto *Southampton*. The fourth hee called *Rikenild street*, stretching forth by *Worcester*, by *Wicombe*, *Brinbingham*, *Litchfield*, *Derby*, *Chesterfield*, and by *Torke* forth into *Tynmouth*. But he that listeth to reade at large of these wayes, let him have recourse to the first volume of *Holinsbeds Chronicle*, and the description of *England* there, the 19. chapter. Where this antiquitie is farre otherwise declared, then by the former writer. *Henry of Huntingdon* likewise in the first booke of his *History*, not farre after the beginning mentioneth these foure streets, terming them *calles Regia sublimatos auctoritate, ne aliquis in eis inimicum invadere auderet, &c.*

Waterbayliffes, anno 28. H. 6. cap. 5. is an officer belonging to the Citie of *London*, which hath the supervision and search of fish, that is brought to that Citie, as also the gathering of the tolle rising from that water. Hee is reckoned an *Esquier* by his Office, as the *Sword-bearer*, the *Huntsman*, and the chiefe *Sergeant* is. He also attendeth upon

the Lord Maior for the time being, and hath the principall care of marshalling the gnefts at his table.

Way, See *Chimin*.

Wife (*wadium*) whence it hath his originall I cannot certainly say. But I finde the nineteenth chapter of the Grand Customary of *Normandie* to be intituled (*De choses gaires*) and latined by the Interpreter (*De rebus vauis*) which are there thus defined: *vaina sunt res, vel alia, quae nullius proprietati attributa, sine possessionis reclamatione sunt inventa, quae usque ad diem & annum servanda sunt. Et de iis modo, quo dictum est de veriscis, that is (weeks) ea sua esse probantibus est restitutio facienda, &c.* This *weise* or things *weived* have the very same signification in our common law, and bee nought but things forsaken. The *Civilians* call it (*Derelictum*) or (*Quod est pro derelicto*) *Bracton* in the twelve chapter of his first booke nu. 10. reckoneth them inter res quae sunt nullius ea quae pro *radio* habentur: sicut de *averiis*, ubi non apparet *Dominus*, where hee also saith, *quod olim fuerant inventoris de jure naturali, & jam efficiuntur principii de jure Gentium.* That this is a *Regality*, and belonging to the King, except it bee challenged by the owner within a yeere and a day, it appeareth by *Britton* in his

venteenth chapter. Now the Kings in their times have granted this and such like Privileges unto divers Subjects with their fees, who there likewise saith, that weifes, things lost, and eltrayes, must by the Lord of the franchise where they are found, bee caused to bee cryed and published in Markers and Churches neere about, or else that the yeere and day doth not runne to the prejudice of him that hath lost them. See *Waine*, *M. Skene de verborum signif. verb. waise*, saith, that *weise est pecus, vel animal aberrans*, which wanders and wavers without a knowne master, and being found by any man within his owne bounds, must bee by him proclaimed upon divers, and sundry Market dayes, at the Parish Church, and within the Sheriffe-dome. Otherwise the Deteyner may bee accused of theft. And it is lawfull for the owner to challenge the beast within a yeere and day. Whereby it appeareth, that in *Scotland* that is called a weife which we here call a stray or estray.

Wald of Kent, is the wooddy part of the Countrie, *Camden Britannia*, pag. 247. *M. Vershegan* in his restitution of decayed intelligence saith, that *VVald*, *VVeald*, and *VVould* differing in

vowel, signifie one thing, to wit, a Forrest. See the rest *litera W*.

Wedding (*Nuptie*) commeth of the German (*wed*) i. *pignus*, and wedde in *Scotland* signifieth so much at this day. *Skene de verborum signif. verbo vadum*.

Weight (*waga*) is a certaine waight of cheese or wooll, containing 256. pounds of *avoyn de poyce*. See *Clove*.

Weights (*Pondera*) what they be, it is well knowne. There bee two sorts of them in use with us. The one called *Troy weight*, which containeth twelve ounces in the pound, and no more: by the which, pearle, precious stones, electuaries, and medicinall things, gold, silver, and bread be weighed: The other is called *Avoyn de pois*, which containeth sixteene ounces in the pound. By this all other things are weighed that passe betweene man and man by weight, saving onely those above named, why the one should bee called *Troy weight*, I have not learned, though I reade it termed *libram & unciam Trojanam*: as if it came from *Troy*. But *Georg. Agricola* in his learned Tractate *de ponderibus & mensuris*, pag. 339. termeth the pound of twelve ounces, *libram medicam*, and the other of sixteene ounces, *libram civilem*; saying thus of them both: *Medica & civilis libra, numero non gra-*

gravitate unciarum differunt. The second seemeth so to bee termed by reason of the more full weight; for (*Avoir de pois*) in French, is as much as to say, as to have full weight. Put by these words (*avoir de pois*) are some time signified such Marchandise as are bought and sold by this kind of weights. The first statute of Yorke, anno 9. Ed. 3. in *prohm.* & anno 27. Ed. 3. stat. 2. cap. 10. & anno 24. H. 8. cap. 13. Of VVeights in Scorland. See *Skene de verbo signif. verbo. Serplato.* All our weights and measures have their first composition from the penny sterling, which ought to weigh two and thirty wheat eornes of a middle sort, twenty of which pence make an ounce, and twelve such ounces a pound, or twenty shillings, but fiteene ounces make the Merchants pound, *Fleta lib. 2. cap. 12.* It is not unlike that this Merchants pound, though an ounce lesse, should bee all one in signification with the pound of *Avoir de pois*: and the other pound, called by *Fleta trone weight*, plainly appeareth to be all one with that which wee now call Troy weight. And I finde not Troy weight mentioned by any other that ever I read upon this subject, but onely our owne Countrey men. See *Tronage.*

Weights of Auncell, an. 14. Ed. 3. stat. 1. ca. 12. See *Auncell weight.*

Were, alias *werre*, signifieth as much as (*Æstimatio capitis, aut pretium hominis.* M. Lamb. explic. of Saxon words. *verb. Æstimatio*) That is to say, so much as one paid for killing of a man. Whereby hee gathereth, that slaughters, and such other great offences, were more rarely committed in ancient times than now: when as for the multitude of offenders, death is most justly inflicted for those crimes, that then were redressed by pecuniary mulcts. Of this see Roger Hoveden, *parte poster. suorum annalium: in Henrico 2. fo. 344.*

Weregelt thef. significat *latronem qui redimi potest. wera enim anglicè idem est in Saxonis lingua, vel pretium vite hominis appretiatum.* *Fleta, lib. 1. cap. 47.*

West Saxon lage, alias *West Sexenlage.* See *Law.*

Wharfe (wharfa) is a broad plain place neere to a Creeke or *Hithe* of the water, to lay wares upon, that be brought to or from the water, to bee transported to any other place. New Booke of Entries, fol. 3. col. 3.

Wharfinger, is the keeper of a wharfe, anno. 7. Ed. 6. ca. 7.

White hart silver (Candidi Cervi argentum) is a tribute or mulct paid into the Exchequer out of the Forrest of White hart: which (as M. Camden reporteth in his

Britan.

Britan, pag. 150.) hath continued from Henry the thirds time, and was imposed by him upon Thomas De-la-linde, for killing of a most beautifull Hart, which himselfe before had purposely spared in hunting.

Widow (*vidua*) seemeth to come of the French (*uide. i. inanitus, exinanitus*) or the verb (*vider. i. insanire*) quasi privata atque orba marito. Macrobius lib. 1. Saturn. ca. 15. draweth it from the Hebruscan verb (*Iduare. i. dividere*). Unde vidua quasi valde idua. i. valde divisa: aut vidua. i. à viro divisa. The signification with us is apparent. But there is one kind of widow, called the widow of the King, or the Kings widow (*vidua Regis*) that requireth exposition. And she in that widow, which after her Husbands death, being the Kings tenent in capite, is driven to recover her dower by a Writ De dote assignanda. Of whom you may reade Stamsf. prerog. cap. 4. The words of the statute of the prerog. made anno 17. Ed. 2. be these: *Item assignabit viduis post mortem virorum suorum, qui de eo tenuerunt in capite, dotem suam, que eas contingit, &c. licet heredes fuerint plena etatis, si vidue voluerint. Et vidua illa ante assignationem dotis sue predictæ, sive heredes plena etatis fuerint, sive infra etatem, jurabunt, quod se non maritabunt sine licentia*

Regis. Tunc Rex capiet in manum suam nomine districtionis omnes terras, & tenementa, que de eo tenentur in dotem, donec satisfecerint ad voluptatem suam: ita quod ipsa mulier nihil capiet de exitibus, &c. quia per hujusmodi districtiones hujusmodi mulieres, seu viri eorum finem facient Regi ad voluptatem suam. Et illa voluntas tempore Regis Henrici patris Regis Edwardi estimari consuevit ad valentiam predictæ dotis per unum annum ad plus, nisi ulteriorem gratiam habuerint. Mulieres, que de Rege tenent in capite aliquam hereditatem, jurabunt similiter, cujuscunq; fuerint etatis, quod se non maritabunt sine licentia Regis. Et si fecerint, terre & tenementa ipsarum eodem modo capiantur in manum Domini Regis, quousque satisfecerint ad voluntatem Regis. Of this see likewise the great Charter, cap. 7. whereby it appeareth that other common Lords have the same power over their widowes, touching their consent in their marriage, that the King hath. Of this you may reade more in the Writ De dote assignanda. Fitzb. nat. brev. fo. 263. C. See also the Statute, an. 32. H. 8. cap. 46.

Windlefor, a Herald. See Herald.

Withernam (*veritum Namium*) Master Lombard thinketh to bee compounded of (*with. i. altera, sive secunda*) & (*Nam. i. pigno-*

pignoris captio) marveiling much why it should so farre bee depraved in the Interpretation, as to bee translated (*Vetitum Namium.*) Reade him in the Explication of Saxon words, *verbo, Pignorari.* The concord of the thing signified with the meaning of the Latine words, maketh some to thinke, that it is compounded of (*webren.*) i. *veto,*) and (*nyman*) or (*nemmen,* i. *capio.*) For *Withernam* in our Common law is the taking, or driving a distresse to a hould, or out of the countie, so that the Sheriffe cannot upon the Replevin make deliverance thereof to the partie disteined: In which case, the Writ of *Withernam*, or *de vetito Namio* is directed to the Sheriffe, for the taking of as many of his beasts that did thus unlawfully distrein, or as much goods of his, into his keeping, till that he hath made deliverance of the first distresse. Also if the beasts bee in a fortlet or castle, the Sheriffe may take with him the power of the Countie, and beat downe the Castle, as it appeareth by the statute, *Westm. pri. cap. 20. Britton. cap. 27.* But *Mr. Lamberds* Interpretation, seemeth more consonant to the writ, the forme whereof is thus in part (*Fitzb. nat. br. fol. 73.*) *Tibi precipimus quod averia pre-*

dicti B. in Balliva tua capias in withernam, &c. and the Register orig. fol. 82. & 83. & 79. a. & 80. a. and in the Regist. Judic. fol. 29. a. & 30. a. Whereby it appeareth, that the Sheriffe by these words is willed to take in compensation of the former taking so many cattell, &c. But yet this may qualifie Master *Lamberds* marveiling, because they that translated this word into such Latine, seeme to have been deceived by the propinquitie of the word (*webren*) both to the word (*withernam*) and also to the meaning. This error (if it be an error) hath a probable likelihood of descent from the Normans, as appeareth by the Grand Customarie, cap. 4. where you have words to this effect: *Deficientes (sc. Balivos) facere iusticiari, & ea, de quibus iudicium vel recordatio habet fieri in curia: debes (sc. Iusticiarium) retrahere vel recitare. Treugam dari debet facere, quod est asscuratio pacis observande. Nampsa injuste capta per ius facere liberari, &c.* Here you may see (*Nampsa*) referred to the first taking or distresse, which is unlawfull. Sir *Thomas Smith* in his *Repub. Anglor.* agreeth with *M. Lamberd* in these words: This (*withernam*) he meaning *Littleton*, with whom *Bracton* also agreeth, lib. 2. cap. & lib. 3. tract. 2.

Cccc i cap.

cap. 36.) interpreteth *utrum* *Namium*, in what language I know not. Whereas in truth it is in plain Dutch, and in our old Saxon language. (*either nempt. i. alterum accipere, luterum rapere*) a word that signifieth all one with that barbarous Latine word (*Reprehensio*) when one taking of me a distresse, which in Latine is called (*pignus*) or any other thing, and carrying it away out of the Jurisdiction, where I dwell; I take by order of him that hath Jurisdiction; another of him againe, or of some other of that Jurisdiction: and doe bring it into the Jurisdiction, wherein I dwell: that by equall wrong I may come to have equall right, &c. *Namium animalium* in Scotland is used for the pouncing of cattell, *Skeu de verbor.* signifi. *verbo*; *Aueris*: whom also reade, *verbo*; *Namare*, *Wiburnam in Bracton*; lib. 3. tract. 2. cap. 37. and also in *Westm.* 2. cap. 2. seemeth to signifie an unlawful distresse, made by him that hath no right to distreine, *m.* 13. *Ed. prim.* cap. 2. See the new booke of Entries. *Verbo Wiburnam*.

Wood (*glans*) is an herbe brought from the parts of *Toulouse* in *France*, and from *Spaine*, much used and very necessary in the dying of wollen cloth, *m.* 7. *H. 8.* cap. 2. we call it *wood* of the

Italian word (*guado*) or the German word (*weide*).

Woodgeld; seemeth to bee the gathering or cutting of wood within the Forest, or money payed for the same, to the use of the Foresters. And the immunity from this by the Kings grant, is by *Crompton* called *Woodgeld*, fol. c. 7.

Woodmen, seem to be those in the Forest, that have their charge especially to looke to the Kings woods. *Manswood parte pri.* of his Forest lawes, pag. 193. and *Crompton* *Juris.* fol. 146.

Woodmote court, is the Attachment of the Forest. *Manswood parte pri.* of his Forest lawes. pag. 93. See *Attachment*.

Woodward (*Woodwardus*) is an officer of the Forest, whose function you may partly gather by his oath let downe in *Crompton* *Juris.* fol. 201. which *M. Manswood* hath also in his first part of his Forest lawes, pag. 50. to the same effect, but something more at large. *viz.* You shall truly execute the office of a woodward of B. woods within the Forest of *W.* so long as you shall bee woodward there: you shall not conceale any offence either in Vert or in Venison, that shall bee committed or done within your charge: but you shall truly present the same, without any favour, affection or reward. And

if you doe see or know any Male-
factours, nor doe find any Deere
killed or hurt; you shall forth-
with doe the verderour under-
stand thereof. And you shall pre-
sent the same: at the next Court
of the Forrest: bee it *Swaime*,
or Court of Attachments, to help
you God. VVoodwards may not
walke with Bow and Shaftis, but
with Forrest bills, *Maimwood parte*
pria of his Forrest lawes, pag. 189.
and more of him, pag. 97.

Wooldriver, anno 2. & 3. Ph.
& Ma. cap. 13. bee those that
buy VVool abroad in the Coun-
try of the sheep-masters; and car-
rie it by horse-back to the Clothi-
ers, or to Market townes to sell
it againe.

Woolfsheaf (*Caput Lupinum*)
is the condition of those, which
were outlawed in the Saxons
time, for not yeelding themselves
to Justice. For if they could be
taken alive, they must have been
brought to the King: and if they
in feare of apprehension did de-
fend themselves, they might bee
slaine, and their heads brought
to the King. For they carried a
Woolves head: that is to say,
their head was no more to be
accounted of, than a Woolves
head, being a beast so hurtfull un-
to man. See the lawes of K. Ed.
set out by M. Lamberd, fol. 127.
b. m. 7. The very like whereof
Bracton also saith, lib. 3. tract. 2, cap.

24. See *Utlary*. Roger Hoveden
writeth that (*Wintonienses, parte po-*
ster. suorum annalium, fol. 343. b.)
whom read of this matter, because
you shall there see what it was in
those dayes to violate the peace of
the Church. *Woolstaple*, anno 5. H. 3. stat. 5.
See *Staple*.

Woolwinders, bee such as wind
up every fleece of wooll that is
to bee packed and sold by weight,
into a kind of bundle after it is
cleaned in such manner as it ought
to be by statute. And to avoid
such deceit as the owners were
wont to use by thrusting locks of
refuse Wooll, and such other
drosse to gaine weight, they are
sworne to performe that Office
truly betweene the owner and
the Merchant. See the statute,
anno 8. H. 6. cap. 22. & anno 23.
H. 8. cap. 17. & anno 18. Eliza.
cap. 25.

Wound. See *Weald*.

Wranglands, seeme to bee
mis-growne Trees that will ne-
ver prove Timber, *Kitchin, fol.*
169. b.

Wormseed (*Semen sanctonicum*)
is medicinall seed brought forth
of that Plant which in Latine is
called (*Sementina*) in English,
Holy worm-wood, whereof you
may reade in *Gerards Herball, li.*
2. cap. 435. This is a Drugg to
bee garbled, anno 1. Iacob. cap.
19.

Wreck (*wreccum vel wrickum maris*) is the losse of a shippe and the goods therein conteyned, by tempest, or other mischaunce at the sea. The Civilians call it (*Naufragium*) This wrecke being made, the goods that were in the shippe, being brought to land by the waves, belong to the King by his prerogative. And thereupon in many Bookes of our Commonlawe, the very goods so brought to land are called wreck. And wrecke is defined to bee those goods which are so brought to land. Sir Edward Coke, *vol. 6. relatio, fol. 106. a.* and the statute anno 17. Edward. 2. *cap. 11.* in these words, *Item Rex habebit wreccum maris, per totum Regnum, ballenas, & sturgesones, captas in mari vel alibi infra Regnum, exceptis quibusdam locis privilegiatis per Regem.* Whereby it appeareth that the King hath them, or such as have by Grant this libertie or Priviledge of him. And that this Statute doth but affirme the auncient Lawe of the Land, it appeareth by *Bracton, lib. 2. cap. 5. num. 7. his verbis: Sunt etiam alie res que pertinent ad Coronam propter privilegium Regis, & ita communem non recipiunt libertatem, quin dari possint, & ad alium transferri. Quia si transferantur, translatio nulli erit damno-*

sa, nisi ipsi Regi sive Principi, Et si hujusmodi res alicui concessae fuerint, sicut wreccum maris, &c. The reason of this hee toucheth shortly in his first booke, *cap. 12. num. 10.* where hee reckneth these goods (*jure naturali*) to bee (*in bonis nullius*) *quia non apparet Dominus eorum, sed jure Gentium fieri principis:* And see him also *lib. 2. cap. 24. num. 1. & 2.* It is worth the asking to knowe what is a wreck and what not in this stricter signification. And the Author of the termes of Law saith, that if any person of the Ship come to land, it is not a wrecke, or the wrecke is not such, that the King ought to have the goods, with whom agreeth Sir Edward Coke *vol. 6. fol. 107. a.* No, if either Dogge or Catte escape alive to the land, the goods are the honours still, so hee come within a yeare and a day to claime them. And for this the statute is plaine. *Westm. prim. cap. 4. anno 3 Edward prim.* which doctrine *Fitzherbert* in his *natura brevium, fol. 112. E.* extendeth thus farre, that if any of the goods bee cast upon the dry Land by any in the ship, it is no wreck subject to the Prerogative, for by this some of the Ship are presumed to come to land, and still to have a custody of the goods. *Cooke ubi supra,* This is the Grand Customary of Norman-

Normandy. *cap. 17.* is called (*va-
rech*) and latined (*veriscum*)
where it appeareth that the like
law to ours was in Normandy
almost in all points. But some
sorts of their precious Merchan-
dise doe by their law apper-
taine to the Duke by his pre-
rogative, though a just challenge
of the goods bee made within
the yeare and day. The Empe-
rours of Rome made no advan-
tage of this pitifull event, as ap-
peareth: *titulo De Naufragijs 11.*
Cod. And it appeareth that
Richard the first had some re-
morse of poore sea-mens mis-
eries in this case. For he *quintum*
clamavit wreck suis subditis Roz.
Hoveden parte poster: suorum
anual. fol. 386. Of this *M.*
Skene de verb. signif. speaketh
to this effect: *wreck* signifieth
a power, libertie, and prero-
gative appertaining to the King,
or to any person, to whom
the same is granted by him
by feofment, or any other
disposition, to take up and gaine
such goods as are ship-broken,
or fall to him by escheate of the
sea.

Writ (breve) is that with our
common lawyers (in *Sir Tho.*
*Smiths judgement lib. 2. de Re-
pub. Anglorum. cap. 9.* which the
Civilians call (*Actionem, seu*
formulam) But I am rather of
his judgement, that hath added

the marginall note unto him,
saying that (*Actio*) is the parties
whole suite: and that (*Breve*) is
the Kings precept, whereby a-
ny thing is commanded to bee
done touching the suite or a-
ction; as the Defendant or Te-
nent to be summoned, a distresse
to bee taken, a disseisin to bee
redressed, &c. And these writs
are diversly divided, in divers
respects. Some in respect of their
order, or manner of granting,
are termed originall, and some
Judiciall. Originall writs bee
those, that are sent out for the
summoning of the Defendant
in a personall, or Tenent in a
reall action, or other like pur-
pose, before the suite beginneth,
or to beginne the suite thereby:
Those, bee judiciall, that bee
sent out by order of the Court,
where the cause dependeth, upon
occasion growing after suite be-
gunne, *old nat. br. fol. 51.* And
Judiciall is thus by one signe
knowne from the Originall,
because the *Teste* beareth the
name of the chiefe Justice of
that Court whence it commeth,
where the Originall beareth in
the *Teste* the name of the Prince,
Then according to the nature
of the action, they bee perso-
nall, or reall: and reall bee ei-
ther touching the possession, cal-
led writs of Entrie, or the pro-
perty, called writs of right.

meadowes, except the Lord of the fee agree with him for the redemption of such waste, afterward restoring it to the Lord of the fee, whereof you may reade at large, *Statut. prerog. cap. 16. fol. 44. & seqq.*

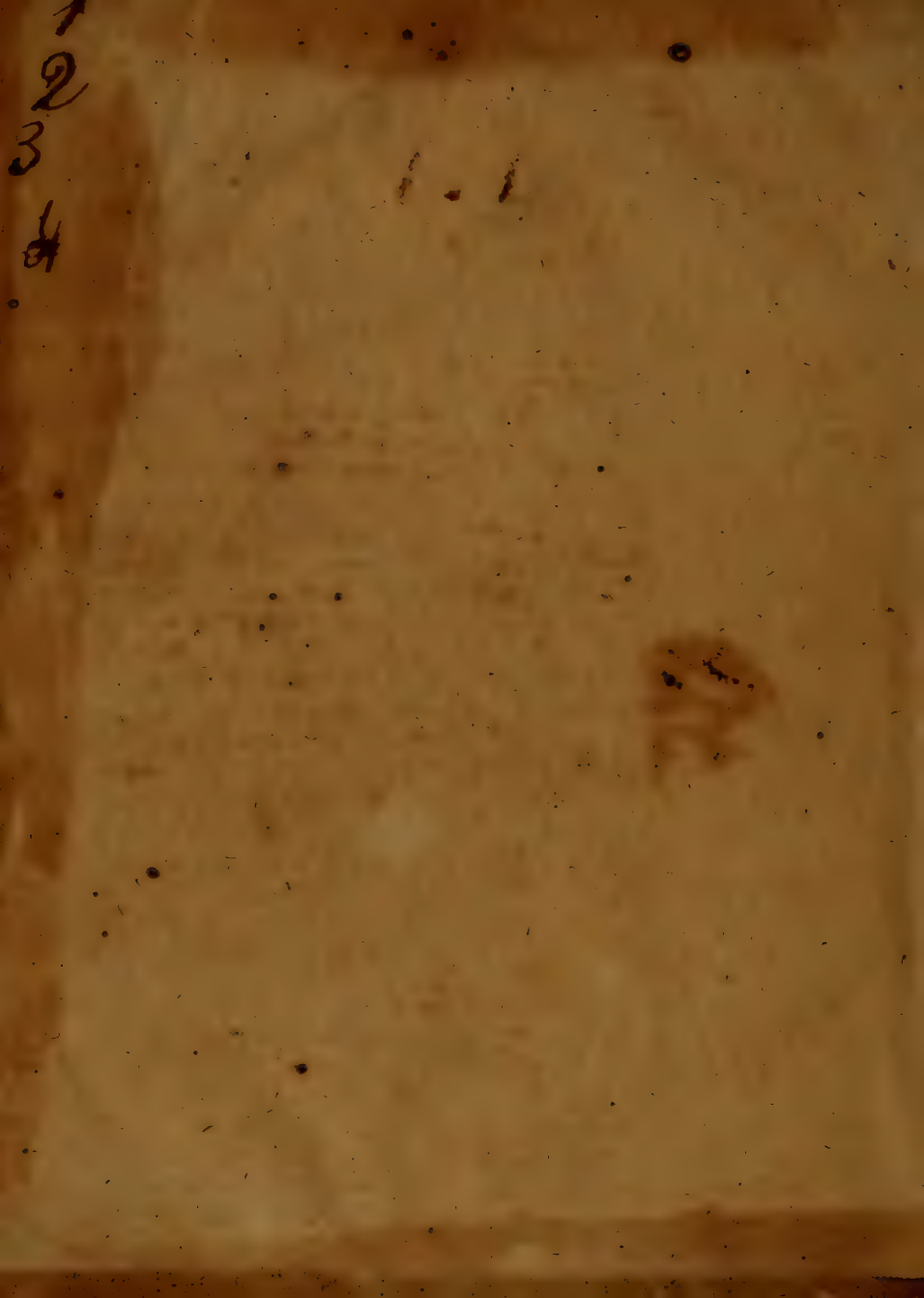
Toman, seemeth to bee one word made by contraction of two Danish words (*young men*) which I gather out of *Canutus* Charter of the forest set out by M. *Manwood*, parte prim. fol. prim. num. 2. in these words: *Sunt sub quolibet horum quatuor ex mediocribus hominibus, quos Angli (Legespend) nuncupant, Dani vero (young men) vocant, locati, qui curam & onus tum viridis tum veneris suscipiant.* These M. *Camden* in his *Britan.* pag. 105. placeth next in order to Gentlemen, calling them (*Ingenuos*) whose opinion the statute affirmeth, *ann. 16. R.2. cap. 4.* Whereunto adde the Statute, *anno 20. ejusdem Regis, cap. 2.* Sir *Thomas Smith*, in his *Repub. Anglor. lib. prim. cap. 23.* calleth him a *Toman*, whom our lawes call *legalem hominem*: which (as he saith) is in English a Free-man borne, that may dispend of his owne free land, in yearly renew, to the summe of forty shillings sterling. Of these he writeth a good large discourse, touching their estate and use in this Common wealth. The former etymologie of the name hee liketh not, ma-

king question whether it come of the Dutch (*Tonger*) yea or not, which in the Low-countries signifieth a meane Gentleman, or a gay fellow; but hee that hath added the marginall notes to that booke, seemeth to draw it from the Saxon (*Geman*) which signifieth a married man. *M. Verstegan* in his restitution of decayed Intelligence, *cap. 10.* writeth that (*Gemen*) among the ancient *Teutonicks*, and (*Germein*) among the moderne, signifieth as much, as common, and that the first Letter G, is in this word, as in many others, turned into T. and so written *Temen*; and that therefore *Temen*, or *Yeomen* signifieth so much as *Commoner*. *Toman* signifieth an Officer in the Kings house, which is in the middle place between the Sergeant and the Groome: as *Toman* of the Chaundry; and *Toman* of the Scullery, *anno 33. Hen.8. cap. 12.* *Toman* of the Crowne, *anno 3. Edw. 4. cap. 5. & anno 22. ejusd. cap. 1. & anno 4. H. 7. cap. 7.* This word (*Tongmen*) is used for *Tomen* in the statute, *anno 33. H.8. cap. 10.*

ΤΩ ΘΕΩ ΔΟ'ΞΑ.

FINIS.

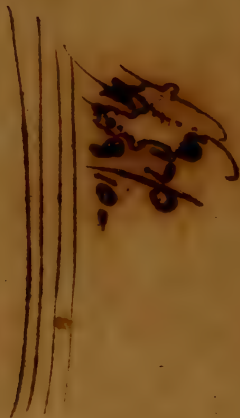
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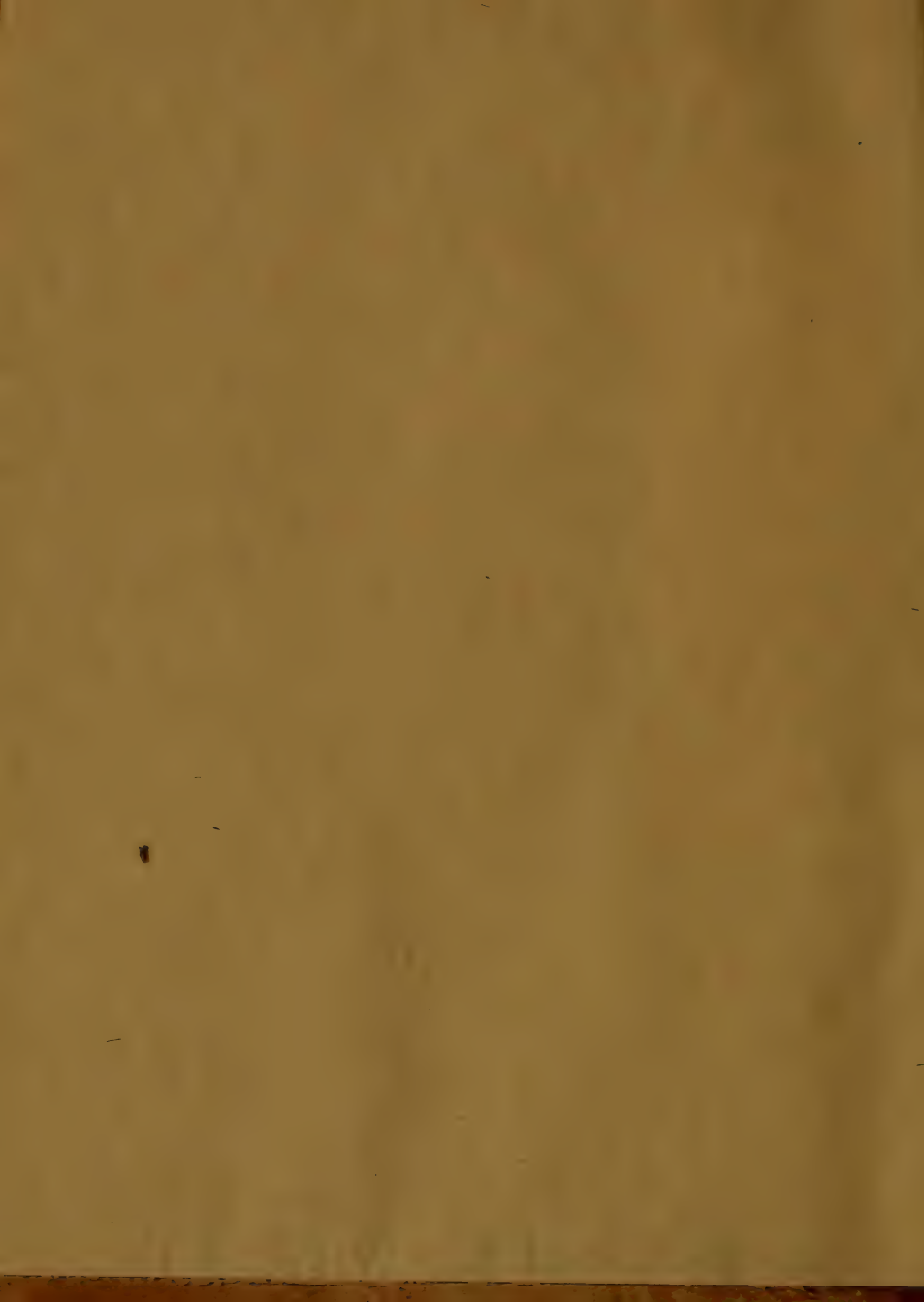
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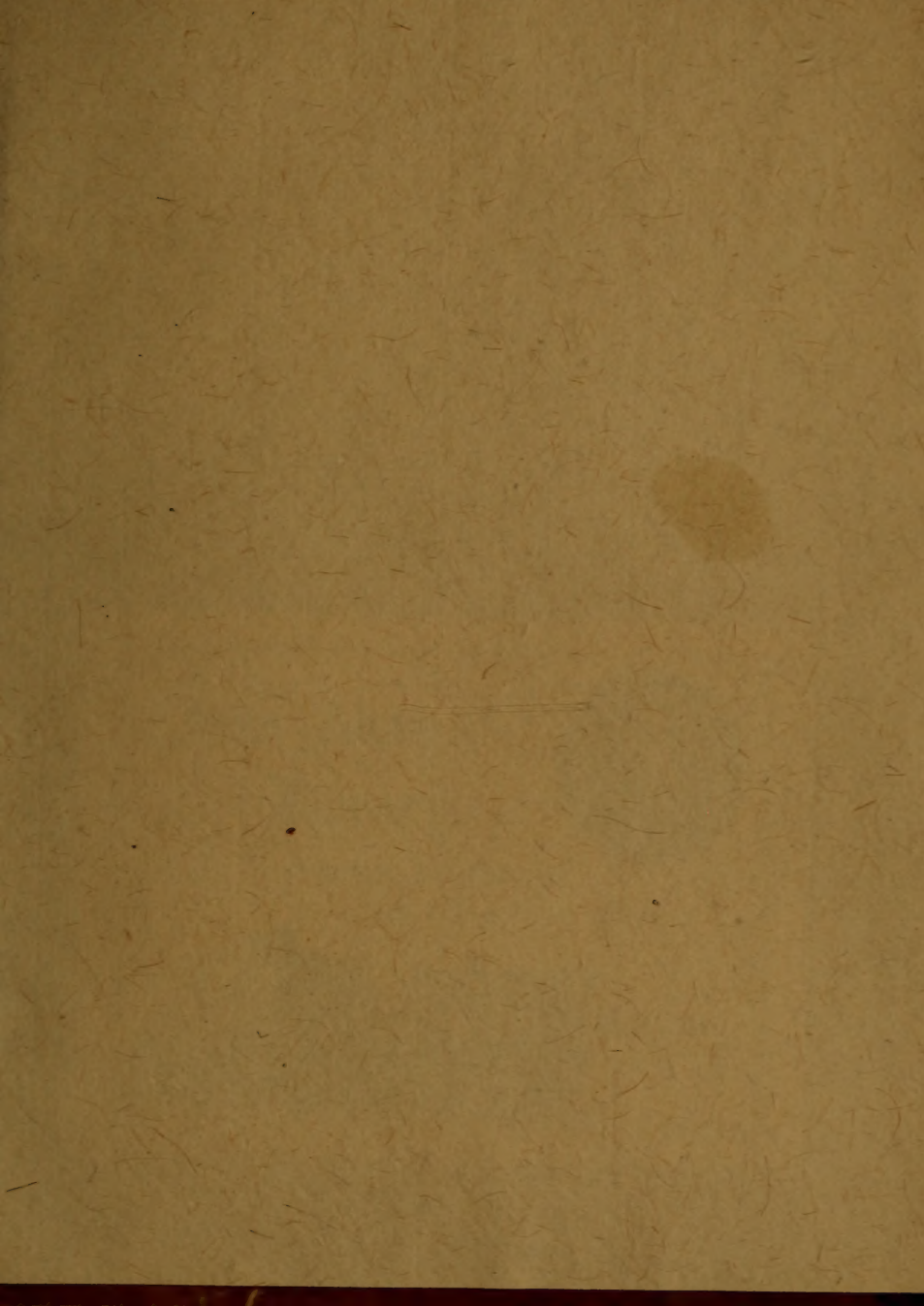


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